

Website

CSBA

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**Regulation 4218: Dismissal/Suspension/Disciplinary Action**

**Status:** ADOPTED

**Original Adopted Date:** 06/01/1994 | **Last Revised Date:** 03/01/2023 2024 | **Last Reviewed Date:** 03/01/2023 2024

Causes for Disciplinary Action

**CSBA NOTE:** The following section should be revised to reflect district practice. **CSBA NOTE:** The following optional administrative regulation is subject to collective bargaining and should be revised in accordance with any applicable collective bargaining agreements. To the extent that this administrative regulation is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law. Education Code 45113 mandates districts not incorporating the merit system to prescribe, by rule or regulation, causes for disciplinary action against permanent classified employees. Pursuant to Education Code 45101, such employees may be disciplined only for cause as so prescribed.

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

**CSBA NOTE:** Pursuant to Education Code 45122.1, 45123, and 45124, districts must not continue to employ anyone who has been convicted of a specified sex offense, controlled substance offense, or violent or serious offense as defined, except for employees who have been rehabilitated or had their conviction reversed or the charges dismissed. Also see AR 4112.5/4212.5/4312.5 - Criminal Record Check.

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

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)
3. Unlawful discrimination, including harassment, against any student or other employee
4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure

5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records
6. Unsatisfactory performance
7. Unprofessional conduct
8. Dishonesty
9. Neglect of duty or absence without leave
10. Insubordination
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance
12. Destruction or misuse of district property
13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

CSBA NOTE: Pursuant to the federal Americans with Disabilities Act (42 USC 12101-12213) and the state's Fair Employment and Housing Act (Government Code 12900-12996), the district has a duty to reasonably accommodate qualified employees with known disabilities, except when such accommodation would cause an undue hardship to the district. This accommodation is not required for individuals who are not otherwise qualified for the job.

14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law
15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job
16. Violation of Education Code 45303 or Government Code 1028 prohibiting the advocacy or teaching of communism
17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

No disciplinary action shall be taken for any cause ~~which~~ **that** arose before the employee became permanent, nor for any cause ~~which~~ **that** arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district. (Education Code 45113)

#### Initiation and Notification of Charges

CSBA NOTE: Pursuant to *Skelly v. State Personnel Board*, permanent public employees are entitled to due process before any punitive disciplinary action, such as termination, suspension, or demotion, may be taken against such employees. These procedural rights include ~~provision of~~ notice of the materials upon which the proposed action is based and the right to respond, either orally or in writing, to a district official ("Skelly officer") who is designated to decide whether the recommended discipline should be imposed.

The Superintendent or designee shall provide notice to the employee of a recommendation for discipline, which includes the charges and materials upon which the recommendation is based. The notification shall identify an impartial district official ("Skelly officer") with whom the employee may meet at a specified time and place or to whom the employee may provide a written response to the recommendation of discipline. After meeting with the employee or considering any response from the employee, the Skelly officer shall recommend to the Superintendent or designee whether to proceed with the recommendation for discipline.

CSBA NOTE: Education Code 45113 mandates districts to adopt disciplinary procedures ~~which that~~ contain provisions for giving classified employees a written notice of specific charges, the employee's right to a hearing on those charges, the time within which the hearing may be requested, and a card or paper to complete to request a hearing.

The Superintendent or designee shall file any final recommendation for a disciplinary action in writing with the Governing Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address.

The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested, which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code 45113, 45116)

### Request for Board Hearing

CSBA NOTE: As provided in the section "Initiation and Notification of Charges" above, Education Code 45113 requires that the notice of disciplinary action include the time within which a hearing may be requested, which cannot be less than five days after service of the notice to the employee. In *California School Employees Association v. Livingston Union School District*, the appeals court ruled that the district failed to provide due process to an employee when it denied the employee the opportunity to request a hearing based on the employee's failure to respond within five days after service of the notice. The district's policy had established the date of "service of the notice" as the date of mailing, but the employee was a 10-month employee who was out of town when the notice was delivered. The court held that the notice was not "reasonably calculated" to provide an opportunity to timely request a hearing. Thus, it is recommended that districts use the date of the employee's receipt of the notice as the date upon which the five-day response period begins. For further information on the evidentiary hearing conducted by the Board or a hearing officer, see the accompanying Board policy.

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the



notice. (Education Code 45113)

Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of the request for a hearing. The request shall be delivered to the office of the Superintendent or designee during normal work hours of that office. If mailed to the office of the Superintendent or designee, it must be received or postmarked no later than the time limit specified by the district. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any request for a hearing on the dismissal shall also constitute a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

### **Employment Status Pending a Disciplinary Hearing**

**CSBA NOTE: Education Code 45113, as amended by AB 2413 (Ch. 913, Statutes of 2022), prohibits a district from suspending without pay, suspending or demoting with a reduction in pay, or dismissing a permanent classified employee who timely requests a hearing pending discipline, unless excepted by law as reflected below. To the extent Education Code 45113, as amended by AB 2413, conflicts with any collective bargaining agreement the district entered into before January 1, 2023, the new requirements described above would not apply until the expiration or renewal of the agreement.**

A classified employee against whom a recommendation for disciplinary action has been issued may remain on active duty or may be placed on paid leave pending a hearing on the charges. The employee shall not be suspended without pay, suspended or demoted with a reduction in pay, or dismissed pending the outcome of a timely requested hearing, except as specified below. (Education Code 45113)

However, the disciplinary action may be imposed prior to the decision if the Board, or an impartial third-party hearing officer provided pursuant to a collective bargaining agreement, finds by a preponderance of the evidence that at the time discipline was imposed, the employee (1) engaged in criminal misconduct, (2) engaged in misconduct that presents a risk of harm to students, staff, or property, or (3) committed habitual violations of the district's policies or regulations. Such finding(s) must be made at the conclusion of the Skelly review process. (Education Code 45113)

In such cases where the disciplinary action is imposed prior to the decision, the employee shall be given written notice of the disciplinary action and the findings made at the conclusion of the Skelly review process. Such written notice shall be served upon the employee personally.

In addition, the district may cease paying the employee if a decision has not been rendered by an impartial third-party hearing officer, pursuant to a collective bargaining agreement, or the Board within 30 days of the date the hearing was requested. (Education Code 45113)

### **Compulsory Leave of Absence**

**CSBA NOTE: State law requires that classified employees in merit system districts and certificated employees be immediately placed on compulsory leave of absence when the district has been informed that charges have been filed on a mandatory leave of absence offense specified in Education Code 44940 and 45304, and gives districts discretion to place such employees on leave**

for other specified offenses. Existing law does not provide for application to classified employees in nonmerit system districts regarding compulsory leave of absence.

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: [\(Education Code 44940, 45304\)](#)

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

The Superintendent or designee may place on an immediate compulsory leave of absence a classified employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols, ~~tetrahydrocannabinol~~. [\(Education Code 44940, 44940.5, 45304\)](#)

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

#### 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
<u>Ed. Code 45116</u>	<u>Notice of disciplinary action</u>
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> <u>charged</u> with mandatory or optional leave of absence offense
Ed. Code 45304	Compulsory leave of absence for classified persons
<u>Gov. Code 12954</u>	<u>Employment discrimination; cannabis use</u>
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, <u>First Amendment</u>	<u>Amendment 1</u> ; Free exercise, free speech, and establishment clauses
<b>Management Resources</b>	<b>Description</b>
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
<u>Court Decision</u>	<u>Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844</u>
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
<u>U.S. Department of Education Publication</u>	<u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u> <u>(<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>)</u>
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
<u>Website</u>	<u>U.S. Department of Education</u>

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**Policy 4240: 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~~ or 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 Public Employment Relations Board (PERB) uses a case-by-case approach to determine whether a district's policy restricting the wearing of

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

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

### Formation of Bargaining Units

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

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

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

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

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

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

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

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

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

### Membership

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

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

### District Communications to Employees

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

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

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

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

However, before disseminating

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

#### Access to New Employee Orientations

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

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

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

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

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

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

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

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

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

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

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

#### Access to Employee Contact Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To provide accurate information, ~~the~~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)

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



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

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

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

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

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**Policy Reference Disclaimer:**

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

<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  
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4119.1  
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4119.25  
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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 4257: 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>
<b>Federal</b>	<b>Description</b>
17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
<b>Management Resources</b>	<b>Description</b>
CA Department of Industrial Relations Publication	Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August <del>2014</del> <u>2005</u>
Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA
<b>Cross References</b>	
<b>Code</b>	<b>Description</b>
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
<del>0470</del>	<del>COVID-19 Mitigation Plan</del>
3514	Environmental Safety
3514	Environmental Safety

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



4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
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4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
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4313.5	Working Remotely
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4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
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4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
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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  
6142.93

School Health Services  
Science Instruction

**Regulation 4257: Employee Safety**

Status: ADOPTED

Original Adopted Date: 06/01/1991 | Last Revised Date: ~~10/01/2020~~ 2024 | Last Reviewed Date: ~~10/01/2020~~ 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 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 introduced into the workplace and represents a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

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

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

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

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

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

Districts are not required to include records of steps taken to implement and maintain the injury and illness prevention program. However, access to such information, or any other information in addition to that required by 8 CCR 3203, may be subject to collective bargaining. The Superintendent or designee shall provide employees, or their representative designated pursuant to 8 CCR 3203, with either of the following: (8 CCR 3203)

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

When an employee or designated representative requests a copy of the district's injury and illness prevention program, the Superintendent or designee shall provide the requester a

printed copy unless the employee or designated representative agrees to receive an electronic copy.

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

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

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

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

#### Labor/Management Safety and Health Committee

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

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

7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

### Hearing Protection

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

### Eye Safety Devices

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

### First Aid and Medical Services

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

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

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

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

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

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

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. -The communication system or the

employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness:
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate:

### Protection from Communicable Diseases and Infections

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

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

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

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

### COVID-19 Exposure

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

- ~~1. Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information;~~



which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.

2. Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period
3. Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:
  - a. COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation
  - b. Available leave options for exposed employees
  - c. Antiretaliation and antidiscrimination protections of the employee
4. Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines

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

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

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

In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not

~~be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.~~

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<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>
<b>Federal</b>	<b>Description</b>

17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records

**Management Resources**

CA Department of Industrial Relations  
Publication

Website

Website

Website

Website

Website

Website

Website

**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

**Cross References**

**Code**

0450

0450

~~0470~~

3514

3514

3514.1

3514.1

3516

3516

3516.5

3530

3530

4112.9

**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

Risk Management/Insurance

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
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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 4257.1: 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

Lab. Code 3200-4856

#### 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

Workers' compensation



Lab. Code ~~3212.86~~  
 Lab. Code ~~3212.88~~  
 Lab. Code 3550-3553  
 Lab. Code 3600-3605  
 Lab. Code 3760  
 Lab. Code 4600  
 Lab. Code 4906  
 Lab. Code 5400-5413  
 Lab. Code 6302  
 Lab. Code 6409.1

**Management Resources**

CA Department of Industrial Relations  
 Publication  
 CA Department of Industrial Relations  
 Publication  
 CA Department of Industrial Relations  
 Publication  
 CA Department of Industrial Relations  
 Publication  
 Website  
 Website  
 Website  
 Website  
 Website  
 Website

**Cross References**

**Code**  
 1240  
 1240  
 3320  
 3320  
 3530  
 3530  
 4032  
 4112.9

COVID-19: critical workers pre-July 5, 2020  
COVID-19: critical workers post-July 5, 2020

Notifications re:regarding workers' compensation benefits  
 Conditions of liability  
 Report of injury to insurer  
 Provision of medical and hospital treatment by employer  
 Disclosures and statements  
 Notice of injury or death  
 Definition of serious injury or illness  
 Reports

**Description**

Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility  
 Workers' Compensation in California: A Guidebook for Injured Workers, 2016  
 Notice to Employees - Injuries Caused by Work  
 Time of Hire Pamphlet  
 CSBA District and County Office of Education Legal Services  
 California Department of Industrial Relations, Division of Workers Compensation  
 California Department of Industrial Relations, Occupational Safety and Health  
 California Department of Public Health  
 CSBA

**Description**

Volunteer Assistance  
 Volunteer Assistance  
 Claims And Actions Against The District  
 Claims And Actions Against The District  
 Risk Management/Insurance  
 Risk Management/Insurance  
 Reasonable Accommodation  
 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 4311: Recruitment And Selection

Status: ADOPTED

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

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

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

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

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

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

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

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

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

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

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

The Superintendent or designee may establish ~~In doing so,~~ an interview committee ~~may be established~~ to rank candidates and recommend ~~452~~ lists. 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 (CaED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with attracting, train, place, and supporting the preparation retain culturally responsive school administrators to improve student outcomes and continued learning meet the needs of teachers, principals, and other school leaders California's education workforce.

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

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

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

### Policy Reference UPDATE Service

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### Policy Reference Disclaimer:

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State	Description
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 35035	Powers and duties of the superintendent; transfer authority
Ed. Code 44066	Limitations on certification requirements
Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center
Ed. Code 44830-44831	Employment of certificated persons

Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations <del>re:</del> regarding residency
Ed. Code 45103-45139	Employment ( <del>is</del> 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 <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	<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

**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))

Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication

Education Workforce Housing Handbook, 2022  
(<https://citylab.ucla.edu/education-workforce-housing-research-report/>)

<a href="#"><u>Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication</u></a>	<a href="#"><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="#"><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="#"><u>University of California Berkeley, Center for Cities + Schools (https://citiesandschools.berkeley.edu/)</u></a>
<a href="#"><u>Website</u></a>	<a href="#"><u>University of California Berkeley, Turner Center for Housing Innovation (https://turnercenter.berkeley.edu/)</u></a>
<a href="#"><u>Website</u></a>	<a href="#"><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 4312.5: 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 ~~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~~ the primary contact for the DOJ for any related

issues. (Penal Code 11102.2)

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

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

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

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

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

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

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

### Interagency Agreement

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

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

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

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

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

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

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

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<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> <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
<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 4312.5-E(1): Criminal Record Check**

**Status:** ADOPTED

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

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

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

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

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

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

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

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

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

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

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

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

**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 <b>sex offense</b> or controlled substance <b>offenses</b> <b>offense</b>
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>
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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
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**Cross References**

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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

**Policy 4340: 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 or 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 a new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson in-person meeting which newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting at the new employee's worksite, during which the exclusive representative shall be permitted to communicate directly with the newly hired employees.

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

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

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

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

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

#### Access to Employee Contact Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To provide accurate information, ~~the~~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. 2702m <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 4357: Employee Safety**

**Status:** ADOPTED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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<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	<b>Description</b> Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records

**Management Resources**

CA Department of Industrial Relations Publication	<b>Description</b> Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August <del>2011</del> <u>2005</u>
Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
<del>0470</del>	<del>COVID-19 Mitigation Plan</del>
3514	Environmental Safety
3514	Environmental Safety

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

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

5141.6

School Health Services

6142.93

Science Instruction



**Regulation 4357: 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 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 I lealth 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 titled "Injury and Illness Prevention Program."- Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law. The district's labor/management safety and health committee shall: (8 CCR 3203)

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

7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

### Hearing Protection

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

### Eye Safety Devices

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

### First Aid and Medical Services

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

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

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

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

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

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

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. ~~The communication system or the~~

employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness:
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate:

### Protection from Communicable Diseases and Infections

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

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

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

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

### COVID-19 Exposure

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

- ~~1. Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information.~~

which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.

2. Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period
3. Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:
  - a. COVID-19 related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation
  - b. Available leave options for exposed employees
  - c. Antiretaliation and antidiscrimination protections of the employee
4. Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines

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

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

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

In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not

~~be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.~~

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**Policy Reference Disclaimer:**

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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
<del>Lab. Code 6401.7</del>	<del>Injury and illness prevention program</del>
<u>Lab. Code 6401.9</u>	<u>Workplace violence prevention plans</u>
<b>Federal</b>	<b>Description</b>



17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records

**Management Resources**

CA Department of Industrial Relations  
Publication

Website

Website

Website

Website

Website

Website

Website

**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

**Cross References**

**Code**

0450

0450

0470

3514

3514

3514.1

3514.1

3516

3516

3516.5

3530

3530

4112.9

**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

Risk Management/Insurance

Employee Notifications

4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
4257.1	Work-Related Injuries

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

**Regulation 4357.1: Work-Related Injuries**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1995 | **Last Revised Date:** ~~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

Lab. Code 3200-4856

#### 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

Workers' compensation

~~Lab. Code 3212.86~~

~~COVID-19: critical workers pre July 5, 2020~~

~~Lab. Code 3212.88~~

~~COVID-19: critical workers post July 5, 2020~~

Lab. Code 3550-3553

Notifications ~~re:regarding~~ workers' compensation benefits

Lab. Code 3600-3605

Conditions of liability

Lab. Code 3760

Report of injury to insurer

Lab. Code 4600

Provision of medical and hospital treatment by employer

Lab. Code 4906

Disclosures and statements

Lab. Code 5400-5413

Notice of injury or death

Lab. Code 6302

Definition of serious injury or illness

Lab. Code 6409.1

Reports

**Management Resources**

**Description**

CA Department of Industrial Relations  
Publication

Workers' Compensation Claim Form (DWC 1) & Notice of  
Potential Eligibility

CA Department of Industrial Relations  
Publication

Workers' Compensation in California: A Guidebook for Injured  
Workers, 2016

CA Department of Industrial Relations  
Publication

Notice to Employees - Injuries Caused by Work

CA Department of Industrial Relations  
Publication

Time of Hire Pamphlet

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Industrial Relations, Division of  
Workers Compensation

Website

California Department of Industrial Relations, Occupational  
Safety and Health

Website

California Department of Public Health

Website

CSBA

**Cross References**

**Code**

**Description**

1240

Volunteer Assistance

1240

Volunteer Assistance

3320

Claims And Actions Against The District

3320

Claims And Actions Against The District

3530

Risk Management/Insurance

3530

Risk Management/Insurance

4032

Reasonable Accommodation

4112.9

Employee Notifications

4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.2	Ergonomics
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.2	Ergonomics
4261.11	Industrial Accident/Illness Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety
4357.2	Ergonomics



4361.1	Personal Illness/Injury Leave
4361.11	Industrial Accident/Illness Leave
4361.9	Catastrophic Leave Program
4361.9	Catastrophic Leave Program

## Policy 5126: Awards For Achievement

Status: ADOPTED

Original Adopted Date: 03/01/2009 | Last Revised Date: ~~12/03/01/2020~~ 2024 | Last Reviewed Date: ~~12/03/01/2020~~ 2024

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievement in academic, artistic, extracurricular, athletic, and community service activities.

**CSBA NOTE:** Generally, state law requires that the educational program be made available to all students, regardless of their socioeconomic background. For example, Education Code 51455 and 51464, prohibit districts from charging students a fee or other cost in relation to any requirements in qualifying for or receiving the Golden State Seal Merit Diploma or the State Seal of Biliteracy. Additionally, Education Code 51007 requires that all students enrolled in the state's public elementary and secondary schools, regardless of their socioeconomic background, have equitable access to educational programs designed to strengthen technological skills. The following paragraph reflects the intent of these laws. For more information regarding the promotion of equity in district programs and activities, see BP 0415 - Equity.

**No fee or other cost shall be charged to any student in relation to any requirements in qualifying for or receiving any district achievement awards.**

### District/School Awards

**CSBA NOTE:** Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence" and mandates that the district adopt rules and regulations implementing any such awards program. See the accompanying administrative regulation for language implementing this mandate.

Pursuant to Education Code 44015, when such an awards program is established in a district, the Board **must** **is required to** budget funds for this purpose, but may authorize awards from funds under its control **regardless of** whether or not budgeted funds have been provided or the budgeted funds are exhausted.

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or monetary gift. **The Board shall establish a budget for this purpose. (Education Code 44015)**

The Superintendent or designee shall develop criteria for the selection of student award recipients.

### Golden State Seal Merit Diploma

**CSBA NOTE:** The following optional section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction (SPI) and the State Board of Education to students identified as demonstrating mastery of the high school core curriculum. See the accompanying administrative regulation for eligibility criteria.

At graduation from high school, students whose academic achievements in core curriculum areas have been outstanding shall receive special recognition.

The Superintendent or designee shall identify graduating high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

### State Seal of Biliteracy

CSBA NOTE: The following optional section is for use by districts maintaining one or more high schools. Education Code 51460-51464 establish the State Seal of Biliteracy, a voluntary program which recognizes high school graduates who have attained a high level of proficiency in one or more languages in addition to English. The SPI will ~~provide~~ **has created** an insignia that ~~can~~ **to** be affixed to the diploma or transcript of eligible students: **which can be obtained by completing a State Seal of Biliteracy insignia request form, available on the California Department of Education's (CDE) website.** See the accompanying administrative regulation for eligibility criteria for the award. Districts that choose to adopt their own criteria and present a district-level biliteracy award may revise the following paragraph accordingly.

The district shall present the State Seal of Biliteracy to each graduating high school student who has attained a high level of proficiency in speaking, reading, and writing in one or more languages in addition to English, **as specified in the accompanying administrative regulation.** (Education Code 51460-51464).

### District Awards for Biliteracy

CSBA NOTE: The following optional paragraph is for use by districts that choose to present **awards for biliteracy awards** at other grade levels, and should be revised to reflect district practice. Californians Together, a statewide coalition working to enhance the success of English learners, recommends issuing local "pathway awards" recognizing benchmarks toward biliteracy at preschool, grade 3, end of elementary school, end of middle school, and when a student who is an English learner is reclassified as fluent English proficient.

In order to affirm the value of bilingualism and encourage students' enrollment in world language programs, the Superintendent or designee may present awards at appropriate grade levels to recognize the pursuit and/or attainment of grade-level proficiency in one or more languages in addition to English. The Superintendent or designee may also present awards to English learners who are reclassified as fluent English proficient to recognize proficiency in both English and the student's native language.

### State Seal of Civic Engagement

CSBA NOTE: The following optional section is for use by districts that recognize students who have demonstrated excellence in civics education and participation and an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government. Education Code 51470-51474 **51475** establish the State Seal of Civic Engagement, a voluntary program which encourages and creates pathways for students in elementary and secondary schools to become civically engaged in democratic governmental institutions at the local, state, and national levels.

The SPI will ~~provide~~ **has created** an insignia that ~~can~~ **to** be affixed to the diploma or transcript of eligible students: **which can be obtained by completing a State Seal of Civic Engagement insignia request form, available on CDE's website.** See the accompanying administrative regulation for eligibility criteria for the award.

Education Code 51475 established the California Serves program which provides grants to eligible districts with the goal of expanding access for students to obtain a State Seal of Civic Engagement through service learning.

The Superintendent or designee shall present the State Seal of Civic Engagement to each 11<sup>th</sup> or 12<sup>th</sup> grade student who demonstrates excellence in civics education and participation and has demonstrated an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government. (Education Code 51470-51474 51475)

CSBA NOTE: The following paragraph reflects information on the California Department of Education's web site CDE's website emphasizing that the criteria are written to ensure that no student is excluded from the opportunity to earn the State Seal of Civic Engagement based on academic ability, alternative school settings, or unique or unconventional expressions of civic engagement.

All district students shall be afforded the opportunity to earn the State Seal of Civic Engagement, regardless of their background, communities, or experiences. No student shall be denied such opportunity based on academic ability, alternative school setting, or unique or unconventional expression of civic engagement.

### Scholarship and Loan Fund

CSBA NOTE: The following section is for use by districts that choose to establish and maintain a scholarship and loan fund pursuant to Education Code 35310-35319. If the district chooses to establish such a fund, it should revise the following paragraph to reflect only those purposes for which it wishes to make funds available.

The Board shall establish and maintain a scholarship and loan fund which shall be used to provide interest-free loans for educational advancement, scholarship, and/or grants-in-aid to bona fide organizations, students, or graduates of district schools. (Education Code 35310, 35315)

CSBA NOTE: If the district establishes a committee to administer the scholarship and loan fund, or if the number of Board members who serve on the committee constitutes a majority of the Board, the committee is required to comply with open meeting laws pursuant to Government Code 54950-54963 (the Brown Act). See AR 1220 - Citizen Advisory Committees and BB 9130 - Board Committees.

The district's scholarship and loan fund shall be administered by a district committee composed of Board members, the Superintendent, and such other community, staff, administrative, and/or student representatives as determined by the Board. (Education Code 35310)

CSBA NOTE: If the district chooses to establish and maintain a scholarship and loan fund, it is mandated pursuant to Education Code 35310 to develop rules and regulations specifying the term of office and method of selection of the community, faculty, administrative, and student representative members of the committee appointed to administer the fund. The following paragraph may be revised to reflect district practice.

The Board shall select its own representatives to the committee. Staff, community, and/or student representatives shall be selected by the Superintendent. Members of this committee shall serve two-year terms.

The committee may accept gifts, donations, and bequests made for the purposes of the fund and may prescribe conditions or restrictions on these gifts and bequests. If the donor imposes any conditions, the committee shall review the conditions and make a recommendation to the Board as to the compatibility of such conditions with the intent and purpose of the fund. The Board may prohibit the committee from accepting any donation under conditions it finds incompatible with the

fund's intents and purposes: [as specified in Board Policy 3290 – Gifts, Grants and Requests.](#)  
(Education Code 35313)

The Superintendent or designee shall report to the Board at least annually regarding the status and activity of the fund. (Education Code 35319)

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**State**

5 CCR 11517.6-11519.5

**Description**

English Language Proficiency Assessments for California

5 CCR 1632

Alternative credits toward graduation for foreign language instruction in private school

5 CCR 876

Golden State Seal Merit Diploma

Ed. Code 220

Prohibition of discrimination

Ed. Code 35160

Authority of governing boards

Ed. Code 35310-35319

Scholarship and loan funds

Ed. Code 44015

Awards to employees and students

[Ed. Code 51007](#)

[Equitable access to programs designed to strengthen technological skills](#)

Ed. Code 51243-51245

Credit for private school foreign language instruction

Ed. Code 51450-51455

Golden State Seal Merit Diploma

Ed. Code 51460-51464

State Seal of Biliteracy

Ed. Code 51470-~~51474~~[51475](#)

State Seal of Civic Engagement

Ed. Code 52164.1

Assessment of English language skills of English learners

Gov. Code 54950-54963

The Ralph M. Brown Act

**Management Resources**

**Description**

California Department of Education  
Publication

SSCE Implementation Guidance

[California Department of Education  
Publication](#)

[State Seal of Biliteracy FAQs](#)

Website

CSBA District and County Office of Education Legal Services

Website

Californians Together

Website

CSBA

Website

California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0415	Equity
1150	Commendations And Awards
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1260	Educational Foundation
3290	Gifts, Grants And Bequests
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
4156.2	Awards And Recognition
4256.2	Awards And Recognition
4356.2	Awards And Recognition
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5137	Positive School Climate
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.4	Service Learning/Community Service Classes

6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6146.11	Alternative Credits Toward Graduation
6146.11	Alternative Credits Toward Graduation
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6174	Education For English Learners
6174	Education For English Learners
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6183	Home And Hospital Instruction
6184	Continuation Education
6184	Continuation Education
9140	Board Representatives

## Regulation 5126: Awards For Achievement

Status: ADOPTED

Original Adopted Date: 03/01/2009 | Last Revised Date: ~~12/03/01/2020~~ 2024 | Last Reviewed Date: ~~12/03/01/2020~~ 2024

CSBA NOTE: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence." Before any awards are given under the authority of this law, the district is **mandated** to adopt rules and regulations implementing the awards program. The Board may delegate the authority to establish criteria for these awards to the Superintendent or designee, as well as a monetary award, except that pursuant to Education Code 44015 each monetary award of more than \$200 must be approved by the Board; see the accompanying Board policy. The following section should be revised to reflect any such rules and regulations adopted by the district.

The Superintendent or designee may appoint an awards committee at each school which may consist of school administrators, staff members, parents/guardians, community members, and student representatives. The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

### Golden State Seal Merit Diploma

CSBA NOTE: The following optional section is for use by districts that maintain high schools. Education Code 51450-51455 require the State Board of Education (SBE) to determine the means and the performance standards or achievement levels that demonstrate mastery of the curriculum for the purpose of awarding the Golden State Seal Merit Diploma. Eligibility criteria are published on the California Department of Education (CDE) ~~web site~~ website and described below.

To be eligible to receive the Golden State Seal Merit Diploma upon graduation from high school, a student shall complete all requirements for a high school diploma and shall demonstrate mastery of the curriculum in mathematics, English language arts, science, U.S. history, and two other subject matter areas selected by the student by meeting at least one of the following criteria for each subject: (Education Code 51451, 51452; 5 CCR 876)

1. Mathematics and English language arts
  - a. A grade of at least B+ or the numerical equivalent in a single course each semester completed in grade 9, 10, or 11
  - b. An achievement level of "Standard Met" or above for the high school Smarter Balanced Summative Assessment
2. Science
  - a. A grade of at least B+ or the numerical equivalent in a single course each semester completed in grade 9, 10, or 11



- b. An achievement level of "Standard Met" or above for the high school California Science Test taken in grade 10 or 11
3. U.S. history
- a. A grade of at least B or the numerical equivalent in the required U.S. history course each semester
  - b. A qualifying score that demonstrates mastery of the subject as determined by the district for an exam produced by a private provider or the district
4. Two additional subject areas of the student's choosing
- a. Any additional qualifying grade or score listed above, earned for the subject of English language arts, mathematics, science, or U.S. history not already used to meet eligibility
  - b. A grade of at least B or the numerical equivalent upon completion of high school courses in other subjects
  - c. A qualifying score that demonstrates mastery of other subjects, as determined by the district, for an exam produced by a private provider or the district

The Superintendent or designee shall maintain appropriate records to identify students who have earned the Golden State Seal Merit Diploma and shall affix an insignia to the high school diploma and transcript of each such student. (Education Code 51454)

CSBA NOTE: CDE requires each district to annually submit one districtwide insignia request on a form provided by CDE. CDE's web site [website](#) encourages districts to submit the request far enough in advance of the graduation ceremony date to allow sufficient time for processing by CDE and for district staff to place the insignias on the diplomas. CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall submit an insignia request form to the California Department of Education in sufficient time to allow for processing of the request prior to the high school graduation ceremony.

### State Seal of Biliteracy

CSBA NOTE: The following optional section is for use by districts that maintain high schools and choose to recognize graduating students' bilingual/multilingual proficiency with the State Seal of Biliteracy pursuant to Education Code 51460-51464; see the accompanying Board policy. The criteria for a student to be eligible for the State Seal of Biliteracy are specified in Education Code 51451, as amended by AB 370 (Ch. 326, Statutes of 2023), and are reflected below. Districts that choose to present biliteracy awards to students at other grade levels may revise the following section to add eligibility criteria for those awards.

Pursuant to Education Code 51461, as amended by SB 98 (Ch. 24, Statutes of 2020); the Superintendent of Public Instruction (SPI) may provide alternative criteria for students on track to graduate in 2020 or 2021 who did not receive a letter grade in English language arts or were not able to take the English Language Proficiency Assessments for California (ELPAC) or due to COVID-19. The SPI has determined that students who were unable to take the ELPAC may meet the requirement based on their prior ELPAC score and consultation with the student's teachers. In addition, the requirement to take the California Assessment of Student Performance and Progress

is waived for students who were not able to take the exam, and students who completed all required English language arts courses through distance learning but did not receive a letter grade due to COVID-19 are eligible to earn the State Seal of Biliteracy if all other requirements are met. For further information, see CDE's State Seal of Biliteracy FAQs located on its web site. For further information, see CDE's State Seal of Biliteracy FAQs located on its website.

To be eligible to receive the State Seal of Biliteracy upon graduation, a student shall demonstrate a high level of proficiency in English and at least one other language, which may include American Sign Language, by meeting all of the following state-established criteria: (Education Code 51461)

Proficiency in English shall be demonstrated by meeting one of the following state-established criteria: (Education Code 51461)

1. 1. Completion of all English language arts requirements for graduation with an overall grade point average of at least 2.0 in those classes 3.0 in those classes or completion of one or more English language arts courses at a public higher education institution or an independent institution of higher education, as described in Education Code 66010, with a grade equivalent to a grade point average of 3.0 or above
2. 2. Passage of the California Assessment of Student Performance and Progress for English language arts, or any successor test, administered in grade 11, at or above the "Standard Met" achievement level

~~3. Proficiency in one or more languages other than English, demonstrated through one of the following methods:~~

- a. 3. Passage of a world language ~~an English~~ Advanced Placement (AP) exam with a score of 3 or higher or an English International Baccalaureate (IB) exam with a score of 4 or higher

4. Achievement of a score of 480 or higher on the Evidence-Based Reading and Writing section of the Scholastic Aptitude Test (SAT)

Proficiency in one or more languages other than English shall be demonstrated through one of the following requirements: (Education Code 51461)

1. Passage of a world language AP exam with a score of 3 or higher, a world language IB exam with a score of 4 or higher, or a world language American Council on the Teaching of Foreign Languages (ACTFL) Writing Proficiency Test (WPT) and an Oral Proficiency Interview (OPI) with scores of Intermediate Mid or higher
- b. 2. Successful completion of a four-year high school course of study of content in a world language at a high school or higher level, attaining an overall grade point average of at least 3.0 in that course of study, and oral proficiency in the language comparable to that required on an AP or IB exam in Item #1 above, successful completion of high school level courses completed in another country in a language other than English with the equivalent of an overall grade point average of 3.0 or above, as verified through a transcript, or completion of one or more world language courses at a public higher education institution or an independent institution of higher education as described in Education Code 66010, with a grade equivalent to a grade point average of at least 3.0 and oral proficiency in the language comparable to that specified in Item #1 above, as verified through a transcript

- e. 3. If no AP exam or off-the-shelf language test exists, passage of a district language exam that can be certified to meet the rigor of a four-year high school course of study in a given language, and that, at a minimum, assesses speaking, reading, and writing in a language other than English at the proficient level or higher
- e. 4. If a language is not characterized by listening, speaking, or reading, or for which there is no written system, passage of an assessment on the modalities that characterize communication in that language at the proficient level or higher
- e. Passage of the SAT II world language exam with a score of 600 or higher

**CSBA NOTE: Pursuant to Education Code 51461, as amended by AB 370, in order to be eligible for the State Seal of Biliteracy English learners are required to receive an Oral Language composite score of level 4 on the English Language Proficiency Assessments for California (ELPAC), rather than in all four domains of the test – reading, writing, listening, and speaking.**

To be eligible to receive the State Seal of Biliteracy, a student whose primary language who is an English learner shall, in addition to demonstrating proficiency in English and one or more languages other than English shall also through one of the accomplishments specified above, attain the an Oral Language composite score of level which demonstrates English language proficiency 4 on the state's English Language Proficiency Assessments for California: , or any successor English oral language proficiency assessment. (Education Code 51461)

CSBA NOTE: CDE requires each district to submit one districtwide insignia request on a form provided by CDE. CDE recommends submitting the online form, which can be found on CDE's web site website, four weeks prior to the graduation date to allow sufficient time for CDE to mail the insignias and for the district to affix the insignias to the diplomas. CDE will mail the insignias within two weeks of receiving the online request.

The Superintendent or designee shall maintain appropriate records to identify high school students who have earned the State Seal of Biliteracy and shall affix the insignia to the high school diploma or transcript of each such student. (Education Code 51463)

### State Seal of Civic Engagement

CSBA NOTE: The following optional section is for use by districts that choose to present the State Seal of Civic Engagement to students who have demonstrated excellence in civics education and participation and an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government pursuant to Education Code 51470-51474; see the accompanying Board policy. The following criteria, adopted by SBE in September 2020, are intended to provide districts with a framework for making determinations of student qualifications based on local contexts.

CDE's ,"SSCE Implementation Guidance," available on its web site website, offers ideas and considerations for districts in the implementation of the criteria.

To be eligible to receive the State Seal of Civic Engagement, a student shall meet district requirements for all of the following state-established criteria:

1. Be engaged in academic work in a productive way

2. Demonstrate a competent understanding of U.S. and California Constitutions, functions and governance of local governments, tribal government structures and organizations, the role of the citizen in a constitutional democracy, and democratic principles, concepts, and processes
3. Participate in one or more informed civic engagement project(s) that address real-world problems and require students to identify and inquire into civic needs or problems, consider varied responses, take action, and reflect on efforts
4. Demonstrate civic knowledge, skills, and dispositions through self-reflection
5. Exhibit character traits that reflect civic-mindedness and a commitment to positively impact the classroom, school, community and/or society

**CSBA NOTE:** CDE provides the insignias to be affixed to students' diplomas or transcripts indicating the award of the State Seal of Civic Engagement. When ordering the insignias, districts will self-certify that students earned the award based on locally created criteria.

The Superintendent or designee shall maintain appropriate records to identify students who have earned the State Seal of Civic Engagement and shall affix the insignia to the high school diploma or transcript of each such student. (Education Code 51473)

### Scholarship and Loan Fund

**CSBA NOTE:** The following section is for use by any district that has established a scholarship and loan fund pursuant to Education Code 35310-35319; see the accompanying Board policy. Districts that have not established such a program should delete this section.

The Superintendent shall serve as chief executive officer of the scholarship and loan fund and as chairperson of the district committee established to administer the fund. The committee shall meet at least once each fiscal year and at other such times as it may be called into session by the Superintendent. (Education Code 35311, 35312)

Scholarship and loan funds shall be deposited, administered, and audited in accordance with Education Code 35314 and 35318.

**CSBA NOTE:** If the district has chosen to maintain a scholarship and loan fund, it is mandated by Education Code 35316 to adopt regulations governing applications, provided such regulations do not limit student eligibility based on any conditions listed in Education Code 220; see BP 0410 - Nondiscrimination in District Activities and Programs. The following paragraph may be expanded to describe the district's application procedures.

The Superintendent or designee shall establish criteria, procedures, and deadlines for student applications for scholarships and/or loans from the fund. As applicable, the Superintendent or designee may require the student to submit letters of recommendation or other supplementary materials providing evidence of the student's accomplishments and/or need.

### Notifications

**CSBA NOTE:** The following optional section may be revised to reflect programs offered by the district.

The Superintendent or designee shall annually distribute information about eligibility requirements for the Golden State Seal Merit Diploma, State Seal of Biliteracy, State Seal of Civic Engagement, and/or any district awards programs to students at the applicable grade levels.

**Policy Reference Disclaimer:**

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 11517.6-11519.5	English Language Proficiency Assessments for California
5 CCR 1632	Alternative credits toward graduation for foreign language instruction in private school
5 CCR 876	Golden State Seal Merit Diploma
Ed. Code 220	Prohibition of discrimination
Ed. Code 35160	Authority of governing boards
Ed. Code 35310-35319	Scholarship and loan funds
Ed. Code 44015	Awards to employees and students
<u>Ed. Code 51007</u>	<u>Equitable access to programs designed to strengthen technological skills</u>
Ed. Code 51243-51245	Credit for private school foreign language instruction
Ed. Code 51450-51455	Golden State Seal Merit Diploma
Ed. Code 51460-51464	State Seal of Biliteracy
Ed. Code 51470-51474 <u>51475</u>	State Seal of Civic Engagement
Ed. Code 52164.1	Assessment of English language skills of English learners
Gov. Code 54950-54963	The Ralph M. Brown Act
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	SSCE Implementation Guidance
<u>California Department of Education Publication</u>	<u>State Seal of Biliteracy FAQs</u>
Website	CSBA District and County Office of Education Legal Services
Website	Californians Together
Website	CSBA
Website	California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0415	Equity
1150	517 Recommendations And Awards

1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1260	Educational Foundation
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5125	Student Records
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6141.5	Advanced Placement
6142.2	World Language Instruction
6142.2	World Language Instruction
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6143	Courses Of Study
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6146.1	High School Graduation Requirements
6146.11	Alternative Credits Toward Graduation

6146.11	Alternative Credits Toward Graduation
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6174	Education For English Learners
6174	Education For English Learners
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6183	Home And Hospital Instruction
6184	Continuation Education
6184	Continuation Education
9140	Board Representatives

**Policy 5141.21: Administering Medication And Monitoring Health Conditions** Status: ADOPTED

Original Adopted Date: 11/01/2011 | Last Revised Date: ~~12/03/01/2019~~2024 | Last Reviewed Date: ~~12/03/01/2019~~2024

CSBA NOTE: The following optional policy and accompanying administrative regulation apply to the administration of medication to students pursuant to Education Code 49414, 49414.1, 49414.3, 49414.5, 49414.7, 49414.8, 49423, and 49423.1 and 49468-49468.5 and the permissive guidelines in 5 CCR 600-611.

~~Pursuant to the general authority in Education Code 49423 and 5 CCR 600-611, as interpreted by the California Supreme Court in American Nurses Association v. Torlakson, health providers may train unlicensed school personnel to administer medication, including emergency anti-seizure medication.~~

This policy and regulation do not address situations in which a district might be engaged in a collaborative arrangement with another entity for the provision of school health services to students; see BP/AR 5141.6 - School Health Services.

The Governing Board believes that regular school attendance is critical to student learning and that students who need to take medication prescribed or ordered for them by their authorized health care providers should be able to participate in the educational program.

Any medication prescribed for a student with a disability who is qualified to receive services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973 shall be administered in accordance with the student's individualized education program or Section 504 services plan, as applicable.

CSBA NOTE: 5 CCR 604 authorizes a parent/guardian to administer medication to a child or designate an individual to administer the medication, as specified below. In addition, California law allows students to carry and self-administer medication needed for the treatment or management of certain medical conditions, when the district has received a written request from the student's parent/guardian and written authorization from the student's authorized health care provider, as specified in the accompanying administrative regulation. Students have legal authorization to self-administer diabetes medication pursuant to Education Code 49414.5, auto-injectable epinephrine for anaphylactic reactions pursuant to Education Code 49423, and inhaled asthma medication pursuant to Education Code 49423.1. Pursuant to 5 CCR 605, districts may choose to allow students to carry and self-administer other types of medication beyond those specifically authorized by the Education Code.

For the administration of medication to other students during school or school-related activities, the Superintendent or designee shall develop protocols which shall include options for allowing parents/guardians to administer medication to their child at school, designate other individuals to do so on their behalf, and, with the student's authorized health care provider's approval, request the district's permission for the student to self-administer a medication or self-monitor and/or self-test for a medical condition. Such processes shall be implemented in a manner that preserves campus security, minimizes instructional interruptions, and promotes student safety and privacy.



The Superintendent or designee shall make epinephrine auto-injectors available at each school for providing emergency medical aid to any person suffering, or reasonably believed to be suffering, from an anaphylactic reaction. (Education Code 49414)

CSBA NOTE: The following paragraph is optional. The district is authorized, but not required, to make certain medications available on its school sites for providing emergency medical aid to students. For example, pursuant to Education Code 49414.3 and, as added by AB 1283 (Ch. 574, Statutes of 2023), Education Code 49414.7, the district is permitted to make emergency naloxone hydrochloride or other opioid antagonist and emergency stock albuterol inhalers available at its schools, for providing emergency medical aid to any person suffering, or reasonably believed to be suffering, from opioid overdose or respiratory distress. The following paragraph may be revised to specify medications that the district, in its discretion, has chosen to stock for use on its school sites. In choosing to make such medications available, the district should be aware of the possibility of increased liability and should consult CSBA's District and County Office of Education Legal Services or district legal counsel accordingly.

In accordance with law, the Superintendent or designee may make naloxone hydrochloride or another opioid antagonist and stock albuterol inhalers available at each school for providing emergency medical aid to any person suffering or reasonably believed to be suffering from opioid overdose or respiratory distress. (Education Code 49414.3, 49414.7)

CSBA NOTE: The following optional paragraph is for use by any district that, at its discretion, chooses to make emergency naloxone hydrochloride or other opioid antagonist available at its schools for the purpose of providing emergency medical aid, pursuant to Education Code 49414.3. In choosing to make such medications available, the district should be aware of the possibility of increased liability and should consult legal counsel accordingly. CSBA NOTE: Although federal law (21 USC 812, 844) prohibits the possession of cannabis, even by medical users, state law allows persons under the age of 18 to use and possess cannabis for medical use. Pursuant to Education Code 49414.1, the Governing Board is authorized to adopt a policy that allows parents/guardians to administer medicinal cannabis to their child at school. Education Code 49414.1 does not permit or require school personnel to administer medicinal cannabis.

Option 1 is for use by districts that choose to adopt a policy allowing parent/guardian administration of medicinal cannabis at school. Because of the conflict between state and federal law, districts considering adoption of such policy should consult CSBA's District and County Office of Education Legal Services or district legal counsel regarding possible ramifications. Education Code 49414.1 authorizes the Board to subsequently amend or rescind the policy for any reason, including, but not limited to, if the district is at risk of, or has lost, federal funding as a result of the policy.

Option 2 is for use by districts that choose to prohibit the administration of medicinal cannabis at school.

The Superintendent or designee shall make naloxone hydrochloride or another opioid antagonist available for emergency medical aid to any person suffering, or reasonably believed to be suffering, from an opioid overdose. (Education Code 49414.3)

CSBA NOTE: Although federal law (21 USC 812, 844) prohibits the possession of cannabis, even by medical users, state law allows persons under the age of 18 to use and possess cannabis for medical use. Pursuant to Education Code 49414.1, as added by SB 223 (Ch. 699, Statutes of 2019), the Governing Board is authorized to adopt a policy that allows parents/guardians to administer medicinal cannabis to their child at school. Education Code 49414.1 does not permit or require school personnel to administer medicinal cannabis.

Option 1 is for use by districts that choose to adopt a policy allowing parent/guardian administration of medicinal cannabis at school. Because of the conflict between state and federal law, districts considering adoption of such policy should consult legal counsel regarding possible ramifications. Education Code 49414.1 authorizes the Board to subsequently amend or rescind the policy for any reason, including, but not limited to, if the district is at risk of, or has lost, federal funding as a result of the policy.

Option 2 is for use by districts that choose to prohibit the administration of medicinal cannabis at school.

**OPTION 1:** The parent/guardian of a student who is a qualified patient pursuant to Health and Safety Code 11362.7-11362.85 may administer medicinal cannabis, excluding medicinal cannabis or cannabis products in a smokeable or vapeable form, to the student at a school site. School personnel are not authorized to administer medicinal cannabis to a student. (Education Code 49414.1)

CSBA NOTE: If the Board chooses Option 1, Education Code 49414.1, as added by SB 223, mandates that the policy include the following requirements.

Before administering medicinal cannabis at a school site, the parent/guardian shall provide to the principal or designee a valid written medical recommendation for the student to be given medicinal cannabis, which shall be kept on file at the school. The parent/guardian shall sign in at the school site before administering the medication, and shall not administer the medication in a manner that disrupts the educational environment or exposes other students. After the parent/guardian administers the medication, the parent/guardian shall remove any remaining medicinal cannabis from the school site. (Education Code 49414.1)

**END OF OPTION 1**

**OPTION 2:** Because of the conflict between state and federal law regarding the legality of medicinal cannabis, the Board prohibits the administration of medicinal cannabis to students on school grounds by parents/guardians or school personnel.

**END OF OPTION 2**

CSBA NOTE: The following optional paragraph applies to all districts and may be revised to reflect district practice. The U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention recommend that a district's emergency and disaster preparedness plan include procedures for dealing with medical emergencies, such as a pandemic flu outbreak or public disaster. See BP/AR 3516 - Emergencies and Disaster Preparedness Plan and BP/AR 5141.22 - Infectious Diseases. The Superintendent or designee shall collaborate with city and county emergency responders, including local public health administrators, to design procedures or measures for addressing an emergency such as a public disaster or epidemic.

#### **Administration of Medication by School Personnel**

CSBA NOTE: Various provisions of state law allow districts to train nonmedical district employees (i.e., those who do not possess a medical license) to provide medical assistance to students at school when a credentialed school nurse or other licensed individual is unavailable. For example, Education Code 49414, 49414.3, 49414.5, 49414.7, 49414.8, 49423, and 49423.1, and 49468.2 specifically authorize the use of trained, unlicensed school employees to administer medications to students suffering from allergic reactions, opioid overdose, severe hypoglycemia, or respiratory distress, asthma, or seizures. Moreover, in *American Nurses Association v. Torlakson*, the California Supreme Court held that, as with other prescription medications, state law permits trained,

unlicensed school personnel to administer insulin to students where a physician has determined that unlicensed school personnel may safely and appropriately administer the medication. The medication must be administered in accordance with a written health care provider statement and parental consent.

Education Code 49426.5, as added by AB 1722 (Ch. 853, Statutes of 2023), authorizes the district to hire a licensed vocational nurse following Board approval that a diligent search was conducted for a credentialed school nurse. Upon hiring a licensed vocational nurse, the district is required to certify to the California Department of Education that a search was properly conducted. A hired vocational nurse is required to be supervised by a credentialed school nurse employed as a school nurse at the district or at another local educational agency.

When allowed by law, medication prescribed to a student by an authorized health care provider may be administered by a school nurse or, when a school nurse or other medically licensed person is unavailable and the physician has authorized administration of medication by unlicensed personnel for a particular student, by other designated school personnel with appropriate training. School nurses and other designated school personnel shall administer medications to students in accordance with law, Board policy, administrative regulation, and, as applicable, the written statement provided by the student's parent/guardian and authorized health care provider. Such personnel shall be afforded appropriate liability protection.

The Superintendent or designee shall ensure that school personnel designated to administer any medication receive appropriate training and, as necessary, retraining from qualified medical personnel before any medication is administered. At a minimum, the training shall cover how and when such medication should be administered, the recognition of symptoms and treatment, emergency follow-up procedures, and the proper documentation and storage of medication. Such trained, unlicensed designated school personnel shall be supervised by, and provided with immediate communication access to, a school nurse, physician, or other appropriate individual.

The Superintendent or designee shall maintain documentation of the training and ongoing supervision, as well as annual written verification of competency of other designated school personnel.

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

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

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<b>State</b>	<b>Description</b>
5 CCR 600-611	Administering medication to students
Bus. Code 2700-2837	Nursing
Bus. Code 3500-3546	Physician assistants
Bus. Code 4119.2	Acquisition of epinephrine auto-injectors
Bus. Code 4119.8	Acquisition of naloxone hydrochloride or another opioid antagonist

Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49407	Liability for treatment
Ed. Code 49408	Student emergency information
Ed. Code 49414	Emergency epinephrine auto-injectors
Ed. Code 49414.3	Emergency medical assistance; administration of medication for opioid overdose
Ed. Code 49414.4	Opioid Misuse
Ed. Code 49414.5	Providing school personnel with voluntary emergency training
Ed. Code 49414.7	Emergency <del>Albuterol Inhalers</del> <u>albuterol inhalers</u>
Ed. Code 49414.8	Funding for emergency opioid antagonists; requirements
Ed. Code 49422-49427	Employment of medical personnel
Ed. Code 49423	Administration of prescribed medication for student
Ed. Code 49423.1	Inhaled asthma medication
<u>Ed. Code 49426.5</u>	<u>Licensed vocational nurses</u>
Ed. Code 49468-49468.5	The Seizure Safe Schools Act
Ed. Code 49480	Continuing medication regimen; notice
H&S 1799.113	Opioid overdose treatment
H&S Code 11362.7-11362.85	Medicinal cannabis
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1400-1482	Individuals with Disabilities Education Act
21 USC 812	Schedule of controlled substances
21 USC 844	Penalties for possession of controlled substance
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 99.30	Conditions under which prior written consent is required to disclose information
<b>Management Resources</b>	<b>Description</b>
American Diabetes Association Publication	Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007
American Diabetes Association Publication	Program Advisory on Medication Administration, 2005
<del>American Diabetes Association Publication</del>	<del>Training Standards for the Administration of Epinephrine Auto-Injectors, rev. 2015</del>
American Diabetes Association Publication	Glucagon Training Standards for School Personnel: -Providing Emergency Medical Assistance to Pupils with Diabetes, May 2006

Court Decision	American Nurses Association v. Torlakson, (2013) 57 Cal.4th 570
National Diabetes Education Program Publication	Helping the Student with Diabetes Succeed: -A Guide for School Personnel, June 2003
Website	CSBA District and County Office of Education Legal Services
Website	National Diabetes Education Program
Website	<u>U.S. Department of Health and Human Services, National Institutes of Health, Heart, Lung, and Blood Institute, asthma information</u>
Website	American Diabetes Association
Website	California Department of Education, Health Services and School Nursing
Website	CSBA
Website	California Department of Public Health

**Cross References**

<b>Code</b>	<b>Description</b>
3513.4	Drug And Alcohol Free Schools
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.43	Universal Precautions
4319.43	Universal Precautions
5022	Student And Family Privacy Rights

5022	Student And Family Privacy Rights
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5141	Health Care And Emergencies
5141	I health Care And Emergencies
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.23	Asthma Management
5141.23	Asthma Management
5141.24	Specialized Health Care Services
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.6	School Health Services
5141.6	School Health Services
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6163.2	Animals At School
6163.2	Animals At School
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504

**Policy 5144: Discipline**

**Status:** ADOPTED

**Original Adopted Date:** 04/01/2014 | **Last Revised Date:** 12/03/01/2018 2024 | **Last Reviewed Date:** 12/03/01/2018 2024

**CSBA NOTE:** The following policy is optional. Pursuant to Education Code 52060-52077, the Governing Board is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that the district intends to take in order to achieve its annual goals in specific priority areas, including student engagement and school climate. See BP/AR 0460 – Local Control and Accountability Plan.

Since a district's ability to meet its goals around these priorities is impacted by its student discipline policies and practices, the Board must be careful to enact rules that are effective in maintaining safety and order on campus and in correcting student's with behavioral problems without unnecessarily excluding students from school or participation in instruction. **CSBA NOTE:** The following policy is optional. State law specifies behaviors for which a student may be suspended and/or recommended for expulsion (see BP/AR 5144.1 - Suspension and Expulsion/Due Process) and State law also authorizes the use of age-appropriate alternatives designed to address a student's specific misbehavior to suspension, including those listed in Education Code 48900.5 and 48900.6.

In addition Since a district's ability to meet its goals is impacted by its student discipline policies and practices, the Governing Board must be careful to enact rules that are effective in providing interventions and supports as well as maintaining safety and order on campus.

The U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the "Nondiscriminatory Administration of School Discipline" (which has been under review by DOJ and OCR since July 30, 2021), state that studies have suggested a correlation between exclusionary discipline policies and practices (such as suspension and expulsion) and an array of serious educational, economic, and social problems, including school avoidance, diminished educational engagement, decreased academic achievement, increased behavior problems, and increased likelihood of dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that districts adopt alternative disciplinary measures that provide students with appropriate interventions and supports as a means for preventing and addressing student misbehavior. OCR's publication, "Resource on Confronting Racial Discrimination in Student Discipline," provides additional resources and findings.

The Governing Board is committed to providing a safe, supportive, and positive school environment which is conducive to student learning and achievement and desires to prepare students for responsible citizenship by fostering self-discipline and personal responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and parent/guardian involvement can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

The Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and ~~correcting~~ responding appropriately to student misbehavior at district schools. The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of district discipline policies and practices.

In addition, the Superintendent or designee's strategies for ~~correcting~~ responding to student misconduct shall reflect the Board's preference for the use of positive interventions and alternative disciplinary measures over exclusionary discipline measures.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed. (Education Code 48900.5)

School personnel and volunteers shall not allow any disciplinary action taken against a student to result in the denial or delay of a school meal. (Education Code 49557.5)

CSBA NOTE: Pursuant to Education Code 49056, as added by SB 291 (Ch. 863, Statutes of 2023), beginning with the 2024-2025 school year, a student may not be denied recess unless the student's participation poses an immediate threat to the physical safety of the student or to the physical safety of one or more of the student's peers. Education Code 44807.5, which authorized the Board to permit the use of recess restriction for disciplinary purposes, was repealed by SB 291.

A student shall not be denied recess unless the student's participation poses an immediate threat to the physical safety of the student or to the physical safety of one or more of the student's peers. If, due to such immediate threat, a student is denied recess, staff shall make all reasonable efforts to resolve the threat and minimize the student's exclusion from recess, to the greatest extent practicable. (Education Code 49056)

CSBA NOTE: Pursuant to Education Code 49005.2, use of seclusion and behavioral restraint as a means of discipline is prohibited. Education Code 49005.4, provides that seclusion or behavioral restraint may only be used to control behavior that poses a clear and present danger of serious physical harm to a student or others that cannot be immediately prevented by a less restrictive response. See AR 5131.41 - Use of Seclusion and Restraint.

Seclusion and behavioral restraint are prohibited as a means of discipline and shall not be used to correct student behavior except as permitted pursuant to Education Code 49005.4 and in accordance with district regulations. (Education Code 49005.2)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. According to Public Counsel's model policy issued as part of the Fix School Discipline Project, a discipline matrix that lists violations and consequences could be a useful guide to school site administrators with regard to when suspension or expulsion referrals should be utilized.

**The Superintendent or designee shall create a model discipline matrix that lists violations and the consequences for each as allowed by law.**

CSBA NOTE: Education Code 35291.5 authorizes, but does not require, school sites to adopt rules and procedures for student discipline. Pursuant to Education Code 32282, any adopted site-level



discipline rules must be included in the comprehensive safety plan; see BP/AR 0450 - Comprehensive Safety Plan. The following paragraph is optional.

The administrative staff **The principal or designee** at each school may develop disciplinary rules to meet the school's particular needs consistent with law, Board policy, and ~~district~~ **administrative** regulations. The Board, at an open meeting, ~~shall~~ **may** review the approved school discipline rules for consistency with Board policy and state law. Site-level disciplinary rules shall be included in the district's comprehensive safety plan. (Education Code 32282, 35291.5)

At all times, the safety of students and staff, **providing interventions and supports to students, as well as** the maintenance of an orderly school environment, shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate **support and/or** discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

The Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively and equitably implement the disciplinary strategies adopted for district schools, including, but not limited to, knowledge of school and classroom management skills and their consistent application, effective accountability and positive intervention techniques, and the tools to form strong, cooperative relationships with parents/guardians.

CSBA NOTE: Pursuant to Education Code 52060, the district must annually adopt an **LCAP a local control and accountability plan** that includes a description of district goals for improving school climate, as provided in the following paragraph.

District goals for improving school climate, based on suspension and expulsion rates, surveys of students, staff, and parents/guardians regarding their sense of school safety and connectedness to the school community, and other local measures, shall be included in the district's local control and accountability plan, as required by law.

At the beginning of each school year, the Superintendent or designee ~~shall~~ **may** report to the Board regarding disciplinary strategies used in district schools in the immediately preceding school year and their effect on student learning.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

**State**

5 CCR 307

**Description**

Participation in school activities until departure of bus

5 CCR 353	Detention after school
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35146	Closed sessions
Ed. Code 35291-35291.5	<del>School discipline rules</del> <a href="#">Rules</a>
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 37223	Weekend classes
<del>Ed. Code 44807.5</del>	<del>Restriction from recess</del>
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 48980-48985	Parent/Guardian notifications
<a href="#">Ed. Code 49055</a>	<a href="#">Restorative justice practices</a>
<a href="#">Ed. Code 49056</a>	<a href="#">Recess restriction</a>
Ed. Code 49005-49006.4	Seclusion and restraint
<a href="#">Ed. Code 49414.4</a>	<a href="#">Opioid misuse: alternative to referral to law enforcement</a>
Ed. Code 49330-49335	Injurious objects
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 52060-52077	Local control and accountability plan
<b>Federal</b>	<b>Description</b>
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 1751-1769j	School Lunch Program
42 USC 1773	School Breakfast Program
<b>Management Resources</b>	<b>Description</b>
California Dept of Education Program Advisories	Classroom Management:- A California Resource Guide for Teachers and Administrators of Elementary and Secondary Schools, 2000
CSBA Publication	Recent Legislation on Discipline: -AB 240, Fact Sheet, March 2015
CSBA Publication	The Case for Reducing Out-of-School Suspensions and Expulsions, Fact Sheet, April 2014
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

CSBA Publication Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

CSBA Publication Maximizing Opportunities for Physical Activity During the School Day, Fact Sheet, November 2009

Fix School Discipline Project

Sample alternative discipline policy

(<http://fixschooldiscipline.org/wp-content/uploads/2014/12/Sample-Alternative-Discipline-Policy.docx>)

U.S. Dept of Education, Office for Civil Rights Publication

Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973

U.S. ~~DOE~~ Dept of Education, Office for Civil Rights Publication

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

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

Resource on Confronting Racial Discrimination in Student Discipline

Website

CSBA District and County Office of Education Legal Services

Website

Public Counsel

Website

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

Website

California Department of Education

Website

CSBA

**Cross References**

**Code**

0450

**Description**

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

0460

Local Control And Accountability Plan

0460

Local Control And Accountability Plan

1114

District-Sponsored Social Media

1114

District-Sponsored Social Media

1312.3

Uniform Complaint Procedures

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

1313	Civility
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3543	Transportation Safety And Emergencies
4131	Staff Development
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5030	Student Wellness
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy

5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5131.9	Academic Honesty
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5142	Safety
5142	Safety
5144.1	Suspension And Expulsion/Due Process

5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students
6162.54	Test Integrity/Test Preparation
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams

6164.5	Student Success Teams
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Regulation 5144: Discipline**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2012 | **Last Revised Date:** 03/01/2023 **2024** | **Last Reviewed Date:** 03/01/2023 **2024**

**Site-Level Rules**

CSBA NOTE: The following section is optional. Pursuant to Education Code 35291.5, schools are authorized, but not required, to adopt site-level student discipline rules and procedures. Schools that choose to adopt student discipline rules, or that are directed by the Governing Board to do so, must solicit input from groups specified in Items #1-5 below. Such site-level rules must be consistent with law, Board policy, and district regulations. If the school develops student discipline rules, Education Code 32282 requires that they be included in the comprehensive safety plan; see BP/AR 0450 -- Comprehensive Safety Plan.

In addition, pursuant to Education Code 52060, the district is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that it intends to take to achieve its annual goals in specified priority areas, including student engagement and school climate. In the development of the LCAP, the district is required to involve and/or consult with parents/guardians, employees, employee organizations, and students in accordance with law. See BP/AR 0460 -- Local Control and Accountability Plan.

Site-level rules shall be consistent with state law and Board policies and administrative regulations. In developing site-level disciplinary rules, the principal or designee shall solicit the participation, views, and advice of one representative selected by each of the following groups: (Education Code 35291.5)

1. Parents/guardians
2. Teachers
3. School administrators
4. School security personnel, if any

CSBA NOTE: Education Code 35291.5 references students in junior high and high school, which has been interpreted to mean students in grades 7-12. Item #5 below may be deleted by elementary districts.

~~5. For junior high and high schools, students enrolled in the school~~

5. Students in grades seven through twelve

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 35291.5 authorizes, but does not require, each school site to adopt school rules every four years. However, it is recommended that the timelines for the review of school rules be aligned with those for the review and updating of the comprehensive safety plan, since the school



rules must, by law, be included in the plan. Pursuant to Education Code 32286, the comprehensive safety plan must be reviewed and updated every year by March 1; see BP/AR 0450 -- Comprehensive Safety Plan.

Annually, site-level discipline rules shall be reviewed and, if necessary, updated to align with any changes in state law, district discipline policies and regulations, and/or goals for school safety and climate as specified in the ~~district's~~ district's local control and accountability plan. A copy of the rules shall be filed with the Superintendent or designee for inclusion in the comprehensive safety plan.

School rules shall be communicated to students clearly and in an age-appropriate manner.

It shall be the duty of each employee of the school to enforce the school rules on student discipline. (Education Code 35291.5)

### Disciplinary Strategies

CSBA NOTE: Education Code 48900.5 lists means of correction of student behavior that a district may use as an alternative to suspension. The district should select those strategies that are appropriate for its student population. The following strategies may be modified or expanded to reflect district practice.

To the extent possible, staff shall use disciplinary strategies that keep students in school and participating in the instructional program. Except when ~~students'~~ students' presence causes a danger to themselves or others or they commit a single act of a grave nature or an offense for which suspension or expulsion is required by law, suspension, supervised suspension, or expulsion shall be used only when other means of correction have failed to bring about proper conduct. Disciplinary strategies may include, but are not limited to:

1. Discussion or conference between school staff, the student, and the ~~student's~~ student's parents/guardians
2. Referral of the student to the school counselor or other school support service personnel for case management and counseling
3. Convening of a study team, guidance team, resource panel, or other intervention-related team to assess the behavior and develop and implement an individual plan to address the behavior in partnership with the student and the ~~student's~~ student's parents/guardians
4. When applicable, referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program (IEP) or a Section 504 plan
5. Enrollment in a program for teaching prosocial behavior or anger management

CSBA NOTE: Pursuant to Education Code 49414.4, as added by SB 10 (Ch. 856, Statutes of 2023), as part of a restorative justice framework, the district may use alternatives to a referral to a law enforcement agency in response to an incident involving a student's misuse of an opioid, to the extent the alternatives are not in conflict with any other law requiring that referral. Items #6-9 below reflect these alternative approaches.

6. Participation in a restorative justice program

7. A positive behavior support approach with tiered interventions that occur during the school day on campus
8. Participation in a social and emotional learning program that teaches students the ability to understand and manage emotions, develop caring and concern for others, make responsible decisions, establish positive relationships, and handle challenging situations capably

CSBA NOTE: The Public Counsel's Counsel's Fix School Discipline Project recognizes that exposure to chronic violence and other family or community traumas, such as serious accidents and life-threatening illnesses involving loved ones, and to conditions such as homelessness, may affect ~~students'~~ students' ability to learn and function well in school, and urges schools to adopt policies that recognize those factors and provide appropriate support to students.

9. Participation in a program that is sensitive to the traumas experienced by students, focuses on ~~students'~~ students' behavioral health needs, and addresses those needs in a proactive manner
10. After-school programs that address specific behavioral issues or expose students to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups

~~11. Recess restriction as provided in the section below entitled "Recess Restriction"~~

~~12~~ 11. Detention after school hours as provided in the section below entitled "Detention After School"

~~13~~ 12. Community service as provided in the section below entitled "Community Service"

~~14~~ 13. In accordance with Board policy and administrative regulation, restriction or disqualification from participation in extracurricular activities

~~15~~ 14. Reassignment to an alternative educational environment

~~16~~ 15. Suspension and expulsion in accordance with law, Board policy, and administrative regulation

CSBA NOTE: Pursuant to Education Code 48900.5, when a ~~student's~~ student's misbehavior may result in a referral for suspension or expulsion after other means of correction have failed, the district may document and place in the ~~student's~~ student's record any other means of correction used to address the behavior. The following optional paragraph may be revised to reflect district practice.

When, by law or district policy, other means of correction are required to be implemented before a student could be suspended or expelled, any other means of correction implemented shall be documented and retained in the ~~student's~~ student's records. (Education Code 48900.5)

CSBA NOTE: The following paragraph may be revised to reflect district practice. Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the district is encouraged to have a student who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code 48900.5 for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator, in addition to the other measures specified in the following paragraph.

When a student has been suspended, or other means of correction have been implemented against the student, for an incident of racist bullying, harassment, or intimidation, the principal or designee shall engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

CSBA NOTE: On July 19, 2022, The United States Department of Education's Office for Civil Rights and Office of Special Education and Rehabilitative Services issued new guidance, "Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973," to help schools support students with disabilities and avoid discriminatory discipline practices.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

When disciplining a student who has been identified for special education and related services, the procedures specified in Administrative Regulation 5144.2 - Suspension And Expulsion/Due Process (Students With Disabilities) shall be applied. If a student has not been identified as a student with a disability and the district suspects the behavior that resulted in discipline may be based in an unidentified disability, the district shall conduct an evaluation to determine if the student has a disability which requires an IEP or 504 plan. (U.S.C. 1412(a)(3))

#### **Recess Restriction**

~~CSBA NOTE: The following optional section should be revised to reflect district practice. Although Education Code 44807.5 authorizes the district to adopt reasonable regulations allowing a teacher to restrict recess time for disciplinary purposes, it is recommended that districts discourage its use since it could limit students' opportunity to engage in physical activity which is inconsistent with district goals for student wellness. Studies have shown that, apart from its multiple health benefits, physical activity can help students improve their academic performance, attention, and behavior.~~

~~In addition, Education Code 44807.5 may conflict with 5 CCR 352, which states "A pupil shall not be required to remain in school during the intermission at noon, or during any recess." Districts that plan to restrict recess are encouraged to consult with CSBA's District and County Office Legal Services or district legal counsel.~~

~~Teachers may restrict a student's recess time only when they believe that this action is the most effective way to bring about improved behavior. When recess restriction involves the withholding of physical activity from a student, teachers shall try other disciplinary measures before imposing the restriction. Recess restriction shall be subject to the following conditions:~~

- ~~1. The student shall be given adequate time to use the restroom and get a drink or eat lunch, as appropriate.~~
- ~~2. The student shall remain under a certificated employee's supervision during the period of restriction.~~

~~3. The student's teacher shall inform the principal of any recess restrictions imposed.~~

### Detention After School

Students may be detained for disciplinary reasons for up to one hour after the close of the maximum school day, or until the departure of the school bus to which they have been assigned if applicable. (5 CCR 307, 353)

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

The student shall not be detained unless the principal or designee notifies the parent/guardian.

Students shall remain under the supervision of a certificated employee during the period of detention.

CSBA NOTE: The following optional paragraph is offered for districts that use Saturday classes for purposes of detention. Education Code 37223 authorizes the use of Saturday classes; however, except in the case of truants, attendance at such classes must be at the election of the student, or parent/guardian when the student is a minor.

Students may be offered the choice of serving their detention on Saturday rather than after school.

### Community Service

As part of or instead of disciplinary action, the Board, Superintendent, principal, or principal's designee may require a student to perform community service during nonschool hours on school grounds or, with written permission of the student's parent/guardian, off school grounds. -Such service may include, but is not limited to, community or school outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. (Education Code 48900.6)

CSBA NOTE: Education Code 48900.6 provides that the community service option is not available for those students who have been suspended, pending expulsion, for acts qualifying for either "mandatory recommendation for expulsion" or "mandatory expulsion" pursuant to Education Code 48915. See BP 5144.1 - Suspension and Expulsion/Due Process.

This community service option is not available for a student who has been suspended, pending expulsion, pursuant to Education Code 48915. -However, if the recommended expulsion is not implemented or the expulsion itself is suspended, then the student may be required to perform community service for the resulting suspension. (Education Code 48900.6)

### Notice to Parents/Guardians and Students

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians, in writing, about the availability of district rules related to discipline. (Education Code 35291, 48980)

The Superintendent or designee shall also provide written notice of disciplinary rules to parents/guardians of transfer students at the time of their enrollment in the district.

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**State**

5 CCR 307

**Description**

Participation in school activities until departure of bus

5 CCR 353

Detention after school

Civ. Code 1714.1

Liability of parent or guardian for act of willful misconduct by a minor

Ed. Code 32280-32289.5

School safety plans

Ed. Code 35146

Closed sessions

Ed. Code 35291-35291.5

School discipline rules Rules

Ed. Code 35291.5

School-adopted discipline rules

Ed. Code 37223

Weekend classes

~~Ed. Code 44807.5~~Restriction from recess

Ed. Code 48900-48926

Suspension and expulsion

Ed. Code 48980-48985

Parent/Guardian notifications

Ed. Code 49055Restorative justice practicesEd. Code 49056Recess restriction

Ed. Code 49005-49006.4

Seclusion and restraint

Ed. Code 49414.4Opioid misuse; alternative to referral to law enforcement

Ed. Code 49330-49335

Injurious objects

Ed. Code 49550-49564.5

Meals for needy students

Ed. Code 52060-52077

Local control and accountability plan

**Federal**

20 USC 1400-1482

**Description**

Individuals with Disabilities Education Act

29 USC 794

Rehabilitation Act of 1973; Section 504

42 USC 1751-1769j

School Lunch Program

42 USC 1773

School Breakfast Program

**Management Resources**California Dept of Education Program  
Advisories**Description**Classroom Management:- A California Resource Guide for  
Teachers and Administrators of Elementary and Secondary  
Schools, 2000

CSBA Publication	Recent Legislation on Discipline: -AB 240, Fact Sheet, March 2015
CSBA Publication	The Case for Reducing Out-of-School Suspensions and Expulsions, Fact Sheet, April 2014
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
CSBA Publication	Maximizing Opportunities for Physical Activity During the School Day, Fact Sheet, November 2009

[Fix School Discipline Project](#)

[Sample alternative discipline policy](#)

<http://fixschooldiscipline.org/wp-content/uploads/2014/12/Sample-Alternative-Discipline-Policy.docx>

U.S. Dept of Education, Office for Civil Rights [Publication](#)

Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973

U.S. ~~DOE~~[Dept of Education](#), Office for Civil Rights Publication

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

[U.S. Department of Education, Office for Civil Rights Publication](#)

[Resource on Confronting Racial Discrimination in Student Discipline](#)

Website

CSBA District and County Office of Education Legal Services

Website

Public Counsel

Website

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

Website

California Department of Education

Website

CSBA

**Cross References**

**Code**

**Description**

0450

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

0460

Local Control And Accountability Plan

0460

Local Control And Accountability Plan

1114

District-Sponsored Social Media

1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3543	Transportation Safety And Emergencies
4131	Staff Development
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5030	Student Wellness

5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5131.9	Academic Honesty
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation



5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5142	Safety
5142	Safety
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students

6162.54	Test Integrity/Test Preparation
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Policy 6115: Ceremonies And Observances**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1994 | **Last Revised Date:** 05/03/01/2020 ~~2020~~ **2024** | **Last Reviewed Date:** 05/03/01/2020 ~~2020~~ **2024**

The Governing Board recognizes the importance of having students observe holidays, celebrate events of cultural ~~or~~, historical, or present day significance, and acknowledge the contributions of outstanding individuals in society. On days designated by the Board, and as required by law, staff shall provide students with appropriate commemorative exercises and educational experiences so that they may acquire the knowledge, skills, and principles essential for informed, responsible citizenship in a democratic society.

CSBA NOTE: Education Code 37220 lists holidays on which district schools must be closed. See the accompanying administrative regulation. Pursuant to Education Code 37220, the Governing Board may designate any other day as a holiday.

District schools shall be closed on the holidays specified in Education Code 37220 and on any other day designated as a holiday by the Board. The Board may, by adoption of a resolution, revise the date upon which schools close in observance of any holiday except Veterans Day, which shall be celebrated on its actual date. (Education Code 37220)

In addition, the Board may, through the adoption of a resolution, authorize the display of symbolic flags or banners in support of specific awareness months.

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**State**

Ed. Code 37220-37222.21

**Description**

Holidays and commemorative events

Ed. Code 44015.1

Week of the School Administrator

Ed. Code 45203

Paid holidays

Ed. Code 45460

Classified School Employee Week

Ed. Code 49110.5

Workplace Readiness Week

Ed. Code 52720-52730

Patriotic exercises and instruction

Gov. Code 3540-3549.3

Public education employer-employee relations

Gov. Code 430-439

Display of flags

**Federal**

**Description**

36 USC 106

Constitution Day and Citizenship Day

4 USC 6

Time and occasion for display of flag

4 USC 7

Position and manner of display of flag

**Management Resources**

Court Decision

**Description**Newdow v. Rio Linda Union School District (9th Cir. 2010)  
597 F.3d 1007

Court Decision

West Virginia State Board of Education et al. v. Barnette et al.  
(1943) 319 U.S. 624

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, History/Social Science  
Instructional Materials

Website

CSBA

**Cross References****Code**

1330

**Description**

Use Of School Facilities

1330

Use Of School Facilities

4156.2

Awards And Recognition

4256.2

Awards And Recognition

4356.2

Awards And Recognition

5113.2Work Permits

6111

School Calendar

6117

Year-Round Schedules

6141.2

Recognition Of Religious Beliefs And Customs

6141.2

Recognition Of Religious Beliefs And Customs

6142.3

Civic Education

6142.4

Service Learning/Community Service Classes

6142.94

History-Social Science Instruction

6143Courses of Study

6144

Controversial Issues

6145.8

Assemblies And Special Events

6178.1Work-Based Learning

**Regulation 6115: Ceremonies And Observances**

Status: ADOPTED

Original Adopted Date: 11/01/1999 | Last Revised Date: 03/01/2023/2024 | Last Reviewed Date: 03/01/2023/2024

Holidays

CSBA NOTE: The following list may be expanded to reflect district practice. Education Code 37220 specifies holidays on which public schools must be closed and allows the Governing Board to designate any other day as a holiday. See the accompanying Board policy. Education Code 37220, as amended by AB 1655 (Ch. 753, Statutes of 2022), incorporates June 19, "Juneteenth National Independence Day," to this list by way of presidential appointment. In addition, Education Code 37220 provides that the Board, by adoption of a resolution, may revise the date upon which district schools close in observance of any of these holidays except Veterans Day, which must be celebrated on its actual date.

Education Code 37220.5 and 37220.7, as amended by AB 1801 (Ch. 761, Statutes of 2022), authorize the closing of school on March 31 in observance of Cesar Chavez Day, on April 24 in observance of Genocide Remembrance Day, and/or on the fourth Friday in September for Native American Day, provided that the Board agrees to do so in a memorandum of understanding reached with employee bargaining units pursuant to Government Code 3540-3549.3. If the district has such an agreement, the holiday(s) should be added to the following list.

District schools shall be closed on the following holidays: (Education Code 37220)

New Year's Day - January 1

Dr. Martin Luther King, Jr. Day - Third Monday in January or the Monday or Friday of the week in which January 15 occurs

Lincoln Day - The Monday or Friday of the week in which February 12 occurs

Washington Day - Third Monday in February

Memorial Day - Last Monday in May

Juneteenth National Independence Day - June 19

Independence Day - July 4

Labor Day - First Monday in September

Veterans Day - November 11

Thanksgiving Day - The Thursday in November designated by the President

Christmas Day - December 25

CSBA NOTE: Pursuant to Education Code 37220, ~~as amended by AB 1655~~, districts are not required to close on Columbus Day, the second Monday in October. ~~Governing Boards~~ may designate Columbus Day as a holiday ~~in on~~ which schools shall close.

In addition, schools shall be closed on: (Education Code 37220)

1. Any day appointed by the Governor as a holiday or as a special or limited holiday on which the Governor provides that schools shall close
2. Any day appointed by the President as a holiday, including by executive order or by signing into law legislation that creates a nationwide federal holiday
3. Any other day designated as a holiday by the Governing Board and/or negotiated with employee organizations

Holidays which fall on a Sunday shall be observed the following Monday. Holidays which fall on a Saturday shall be observed the preceding Friday. If any of the above holidays ~~occurs~~occur under federal law on a date different from that indicated above, the ~~Governing Board~~ may close the schools on the date recognized by federal law instead of on the date above. (Education Code 37220)

### Commemorative Exercises

CSBA NOTE: The following section lists special days that schools are required by state and/or federal law to observe with suitable commemorative exercises.

Pursuant to Education Code 49110.5, as added by AB 800 (Ch. 271, Statutes of 2023), districts are required to observe, during the week that includes April 28, "Workplace Readiness Week," by providing high school students with specified information on their rights as workers, and, for students in grades 11 and 12, for the observances to be integrated into the regular school program consistent with the history-social science framework.

In addition to commemorative exercises that are required by law, Education Code 37220.7, ~~as amended by AB 1801~~, and ~~51109~~51009, as well as various legislative resolutions, have designated other days of special significance on which schools are encouraged, but not required, to conduct appropriate commemorative exercises, including, but not limited to: (1) School Board Recognition Month in January; (2) Ed Roberts Day on January 23; (3) Fred Korematsu Day of Civil Liberties and the Constitution on January 30; (4) Ronald Reagan Day on February 6; (5) Lunar New Year on the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice if an intercalary month intervenes; (6) Week of the School Administrator ~~on~~in the ~~first~~second full week of ~~March~~October; (7) California Agriculture Day on the first day of spring each year; (8) Welcome Home Vietnam Veterans Day on March 29 or 30; (9) Cesar Chavez on March 31; (10) California Poppy Day on April 6; (11) Dolores Huerta Day on April 10; (12) John Muir Day on April 21; (13) Genocide Remembrance Day on April 24; (14) Labor History Month in May; (15) the Day of the Teacher on the second Wednesday in May; (16) Harvey Milk Day on May 22; (17) September 11th Remembrance Day on September 11; (18) Native American Day on the fourth Friday in September; (19) Larry Itliong Day on October 25; and (20) Bill of Rights Day on December 15. The California Department of Education's ~~web site~~website includes a calendar of events listing other days for which special recognition is encouraged. The list below may be modified to include any optional days of special significance so designated by the Board.

District schools shall hold exercises in accordance with law to commemorate the following special days: (Education Code 37220, 37221, 45460, 49110.5)

Dr. Martin Luther King, Jr. Day - The Friday before the day schools are closed for this holiday

Abraham Lincoln's Birthday - The school day before the day schools are closed for this holiday

Susan B. Anthony Day - February 15

George Washington's Birthday - The Friday preceding the third Monday in February

Black American Day - March 5

Conservation, Bird, and Arbor Day - March 7

Workplace Readiness Week - The week that includes April 28

Classified Employee Week - Third week in May

U.S. Constitution and Citizenship Day - On or near September 17

Commemorative exercises shall be integrated into the regular educational program ~~to the extent feasible.~~ as required by law.

#### **Patriotic Exercises**

CSBA NOTE: Education Code 52720 requires all schools to conduct patriotic exercises daily. Pursuant to Education Code 52720 and 52730, this requirement may be satisfied by reciting the Pledge of Allegiance and/or through the instruction described below.

Each school shall conduct patriotic exercises daily, which may include the Pledge of Allegiance to the Flag of the United States and/or instruction that promotes understanding of the concepts of "pledge," "allegiance," "republic," and "indivisible" and understanding of the importance of the pledge as an expression of patriotism, love of country, and pride in the United States. (Education Code 52720, 52730)

CSBA NOTE: The following paragraph is for use by districts maintaining elementary schools.

At elementary schools, such exercises shall be conducted at the beginning of each school day. (Education Code 52720)

CSBA NOTE: The following paragraph is for use by districts maintaining secondary schools. Education Code 52720 **mandates** that the Board adopt regulations pertaining to the conduct of patriotic exercises in secondary schools. The following paragraph should be revised to reflect district practice.

At secondary schools, such exercises shall be conducted during the homeroom period.

CSBA NOTE: In *Newdow v. Rio Linda Union School District*, the Ninth Circuit Court of Appeals upheld a school policy permitting teacher-led recitation of the Pledge of Allegiance pursuant to Education Code 52720 where students were permitted by policy to decline participation for personal reasons. In *West Virginia State Board of Education et al. v. Barnette et al.*, the court held that individuals may not be compelled to salute the flag or to stand during the salute.

A student may choose not to participate in the flag salute or Pledge of Allegiance for personal reasons.

### Display of Flag

The flag of the United States and the flag of California shall be displayed during business hours at the entrance or on the grounds of every district school and on or near the district office. At all times, the national flag shall be placed in the position of first honor. (Government Code 431, 436; 4 USC 6)

When displayed on a building or on a flagstaff in the open, the national flag shall be displayed only from sunrise to sunset unless properly illuminated during the hours of darkness. The flag should not be displayed during inclement weather unless an all-weather flag is used. (4 USC 6)

The national flag shall fly at half-staff on the following occasions: (4 USC 7)

1. For 30 days from the death of the President or a former President
2. For 10 days from the death of the Vice President, the Chief Justice or a retired Chief Justice, or the Speaker of the House of Representatives
3. From the day of death until interment of an Associate Justice of the Supreme Court, a secretary of an executive or military department, former Vice President, or the Governor of a state
4. On the day of death and the following day for a Member of Congress
5. On Memorial Day, until noon only
6. On Peace Officers Memorial Day (May 15), unless it falls on Armed Forces Day
7. Upon a proclamation from the Governor in the event of the death of a present or former official of the state government or, a member of the Armed Forces from the state who has died while serving on active duty, or the death of a first responder working in the state who dies while serving in the line of duty
8. On other occasions by order of the President and in accordance with presidential instructions or orders

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State	Description
Ed. Code 37220-37222.21	Holidays and commemorative events
Ed. Code 44015.1	Week of the School Administrator
Ed. Code 45203	Paid holidays



Ed. Code 45460

Ed. Code 49110.5

Ed. Code 52720-52730

Gov. Code 3540-3549.3

Gov. Code 430-439

**Federal**

36 USC 106

4 USC 6

4 USC 7

**Management Resources**

Court Decision

Court Decision

Website

Website

Website

**Cross References**

**Code**

1330

1330

4156.2

4256.2

4356.2

5113.2

6111

6117

6141.2

6141.2

6142.3

6142.4

6142.94

6143

Classified School Employee Week

Workplace Readiness Week

Patriotic exercises and instruction

Public education employer-employee relations

Display of flags

**Description**

Constitution Day and Citizenship Day

Time and occasion for display of flag

Position and manner of display of flag

**Description**

Newdow v. Rio Linda Union School District (9th Cir. 2010)  
597 F.3d 1007

West Virginia State Board of Education et al. v. Barnette et al.  
(1943) 319 U.S. 624

CSBA District and County Office of Education Legal Services

California Department of Education, History/Social Science  
Instructional Materials

CSBA

**Description**

Use Of School Facilities

Use Of School Facilities

Awards And Recognition

Awards And Recognition

Awards And Recognition

Work Permits

School Calendar

Year-Round Schedules

Recognition Of Religious Beliefs And Customs

Recognition Of Religious Beliefs And Customs

Civic Education

Service Learning/Community Service Classes

History-Social Science Instruction

Courses of Study

553

6144

Controversial Issues

6145.8

Assemblies And Special Events

6178.1

Work-Based Learning

**Policy 6141.2: Recognition Of Religious Beliefs And Customs**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/1988 | **Last Revised Date:** 03/01/2004 ~~2024~~ | **Last Reviewed Date:** 03/01/2004 ~~2024~~

CSBA NOTE: In February 2003 ~~May 2023~~, the U.S. Department of Education issued guidance on constitutionally protected prayer and religious expression in public schools. Pursuant, which includes the extent to which prayer in public schools is legally protected, constitutional principles that relate to religious expression in general, and requirements under federal and state laws relevant to prayer and religious expression. The guidance reaffirms that, pursuant to 20 USC 7904, districts must annually certify to the California Department of Education (CDE) that they do not have a policy that prevents, or otherwise denies participation in, constitutionally protected school prayer. While the guidance may provide some provides general direction to school districts regarding issues surrounding religion in public schools, certain provisions it may not give a complete picture of the state of the law for school districts in California. Because decisions of the reflect 9th Circuit Court of Appeal Appeals (of which California is a part) and state court decisions reflecting which are based on the California Constitution may not be reflected in the.

Additionally, Appendix F of CDE's History and Social Science Framework, adopted in July 2016, offers guidance, districts with questions and support for educators regarding the recognition of religious issues in schools should consult legal counsel.

beliefs and customs with concepts from the Appendix reflected below.

Use of school facilities by student religious clubs and other religious groups is governed by the Equal Access Act (20 USC 4071-4074) and Civic Center Act (Education Code 38130-38138), respectively; see BP/AR 1330 - Use of School Facilities and BP/AR 6145.5 - Student Organizations and Equal Access and BP/AR 1330 - Use of School Facilities. For policy regarding distribution of flyers, including flyers containing religious materials, see BP/AR 1325 - Advertising and Promotion. For policy regarding absences for religious instruction or exercises pursuant to Education Code 46014, see BP/AR 5113 - Absences and Excuses. For policy regarding invocation at graduation ceremonies, see BP 5127 - Graduation Ceremonies and Activities. For policy regarding religious attire in relation to school dress codes, see BP 5132 - Dress and Grooming.

The following optional policy should be carefully reviewed and modified to reflect district practice. Because constitutionally protected prayer and religious expression in schools can involve complex legal issues, districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

The Governing Board recognizes that students' education would be incomplete without an understanding of the role of religion in society. As appropriate for a particular course, teachers may objectively discuss the influences of various religions, using religious works and symbols to illustrate their relationship with culture, literature, or the arts. The Board expects that such instruction will identify principles common to all religions and foster respect for the diversity of religions and customs in the world: and be consistent with the adopted instructional materials and state

standards, as applicable.

In order to respect each student's individual right to freedom of religious practice, religious indoctrination is clearly forbidden in the public schools. Instruction The Superintendent or designee shall ensure that instruction about religion shall does not promote or denigrate the beliefs or customs of any particular religion or sect, nor should that a preference be shown for one religious viewpoint over another. Staff members shall be highly sensitive to their obligation not to interfere with the religious development of any student in whatever tradition the student embraces, and treat all religions and religious conviction, including nonbelief, with fairness and respect.

Staff shall not endorse, encourage, or solicit religious or anti-religious expression or activities among students during class time. As part of their official duties, staff

CSBA NOTE: In Kennedy v. Bremerton School District, the U.S. Supreme Court found that the employee, a football coach, did not coerce students to pray when the employee knelt at midfield after games to offer a quiet personal prayer and rejected the district's argument that any visible religious conduct by a teacher or coach amounted to impermissible coercion on students. The court concluded that the coach was acting in a private capacity and not in the capacity of an employee of the district when the prayer was offered during a time when school employees were free to attend to personal matters.

Staff shall not lead/coerce students in prayer or other religious activities. as part of their official duties. However, Staff are not prohibited, when acting in their private capacity, from encouraging students' participation in personal prayer or other religious activity. Additionally, staff shall not prohibit or discourage any student from praying or otherwise expressing his/her the student's religious belief as so long as this does not disrupt the classroom. or other school sponsored activity.

Students may express their beliefs about religion in their homework, artwork, and other class work if the expression is germane to the assignment. Such work shall be judged by ordinary academic standards, relevance, and other legitimate pedagogical objectives.

While teaching about religious holidays is a permissible part of the educational program, celebrating religious holidays is not allowed in the public schools. district. School-sponsored programs shall not be, nor have the effect of being, religiously oriented or a religious celebration. School and classroom decorations may express seasonal themes that are not religious in nature.

Music, art, literature or drama programs having religious themes are permitted as part of the curriculum for school-sponsored activities and programs if presented in an objective manner and as a traditional part of the cultural and religious heritage. The use of religious symbols that are part of a religious holiday is permitted as a teaching aid or resource provided that such symbols are displayed as an example of cultural and religious heritage of the holiday and are temporary in nature.

Classroom methods in instruction about religion shall not include religious role-playing activities or simulated religious devotional acts.

Music, art, literature or drama programs having religious themes are permitted as part of the curriculum for school-sponsored activities and programs if presented in an objective manner and as a traditional part of cultural and religious heritage.

**CSBA NOTE:** In *Fellowship of Christian Athletes v. San Jose Unified School District*, the Ninth Circuit U.S. Court of Appeals held that it would be discrimination for a district to fail to recognize a student club with religiously based leadership requirements. The court found that multiple student clubs imposed certain requirements for membership or leadership positions—i.e., discriminated against certain students—but that the district only objected to the Fellowship of Christian Athletes' requirements because of the religious basis of the requirements.

District schools shall not prohibit religious activities if the same or similar non-religious activities are permitted.

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**State**

Ed. Code 38130-38139

**Description**

Civic Center Act

Ed. Code 46014

Absences for religious purposes

Ed. Code 51511

Religious matters properly included in courses of study

Ed. Code 51938

Right of parent/guardian to excuse from sexual health instruction

**Federal**

20 USC 4071-4074

**Description**

Equal Access Act

20 USC 6061

School prayer

20 USC 7904

School prayer

**Management Resources**

Court Decision

**Description**

*Cole v. Oroville Union High School District*, (2000, 9th Cir.) 228 F.3d 1092

[Court Decision](#)

[Fellowship of Christian Athletes v. San Jose Unified School District Board of Education \(2023\) 82 F.4th 664](#)

[Court Decision](#)

[Florey v. Sioux Falls \(1980\) 619 F.2d 1311](#)

[Court Decision](#)

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

*Lassonde v. Pleasanton Unified School District*, (2003, 9th Cir.) 320 F.3d 979

Court Decision

*Lemon v. Kurtzman*, (1971) 403 U.S. 602

[California Department of Education](#)

[Appendix F history social science framework for California public schools](#)

[www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf](http://www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf)

U.S. Department of Education Publication [Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html), February 2003 ~~May 2023~~  
[\(https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html\)](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

Website CSBA District and County Office of Education Legal Services

Website California Department of Education

Website CSBA

Website U.S. Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1325	Advertising And Promotion
1330	Use Of School Facilities
1330	Use Of School Facilities
5113	Absences And Excuses
5113	Absences And Excuses
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5127	Graduation Ceremonies And Activities
<u>5132</u>	<u>Dress and Grooming</u>
5141.31	Immunizations
5141.31	Immunizations
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
6111	School Calendar
6115	Ceremonies And Observances
<del>6115</del>	<del>Ceremonies And Observances</del>
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education

6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6161.11	Supplementary Instructional Materials
6176	Weekend/Saturday Classes

**Regulation 6141.2: Recognition Of Religious Beliefs And Customs**

**Status:** ADOPTED

**Original Adopted Date:** 05/01/1985 | **Last Revised Date:** 03/01/2004 **2024** | **Last Reviewed Date:** 03/01/2004 **2024**

CSBA NOTE: The following administrative regulation is optional and should be modified to reflect district practice:

Education Code 51938 specifies that a parent/guardian may request that his/her child be excused from sexual health and HIV/AIDS prevention education; see BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction for language implementing this requirement.

CSBA NOTE: The following administrative regulation is optional and should be modified to reflect district practice. Appendix F of the California Department of Education's History and Social Science Framework, adopted in July 2016, offers guidance and support for educators regarding the recognition of religious beliefs and customs; concepts from the Appendix are reflected below.

The Superintendent or designee shall ensure the following for the recognition of religious beliefs and customs in district schools:

1. The approach to religion is academic and not devotional
2. The goal is for student awareness of religion in historical and contemporary societies
3. The students may not be pressed to accept any one religion
4. The school may include the study of religion as part of the history-social science curriculum, but the practice of religions may not be sponsored
5. The students may be exposed to and educated about a diversity of religious views and beliefs, but a particular view or belief may not be imposed, nor may any one religion be promoted or denigrated

Staff shall make every effort to schedule one-time events, such as examinations, school-sponsored trips, special laboratories, picture-taking days, and class parties, to minimize conflicts with major religious holidays of all faiths: such that no one faith is disproportionately impacted.

**Programs and Exhibits**

When school programs and exhibits are in any way related to instruction about religion or religious holidays, the following guidelines shall be observed:

1. The principal or designee shall ensure that school-sponsored programs are presented in an objective manner, consistent with Board policy.



2. The principal or designee shall be kept informed of the program's development.
3. Program or exhibit planners shall take into consideration the diverse religious faiths represented in the community, student body and staff.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

**State**

Ed. Code 38130-38139

**Description**

Civic Center Act

Ed. Code 46014

Absences for religious purposes

Ed. Code 51511

Religious matters properly included in courses of study

Ed. Code 51938

Right of parent/guardian to excuse from sexual health instruction

**Federal**

20 USC 4071-4074

**Description**

Equal Access Act

20 USC 6061

School prayer

20 USC 7904

School prayer

**Management Resources**

Court Decision

**Description**

Cole v. Oroville Union High School District, (2000, 9th Cir.)  
228 F.3d 1092

[Court Decision](#)

[Fellowship of Christian Athletes v. San Jose Unified School District Board of Education \(2023\) 82 F.4th 664](#)

[Court Decision](#)

[Florey v. Sioux Falls \(1980\) 619 F.2d 1311](#)

[Court Decision](#)

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

Lassonde v. Pleasanton Unified School District, (2003, 9th Cir.) 320 F.3d 979

Court Decision

Lemon v. Kurtzman, (1971) 403 U.S. 602

[California Department of Education](#)

[Appendix F history social science framework for California public schools](#)

[www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf](http://www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf)

U.S. Department of Education Publication [Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools](#),  
February 2003 [May 2023](#)  
[https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1325	Advertising And Promotion
1330	Use Of School Facilities
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5121	Grades/Evaluation Of Student Achievement
5127	Graduation Ceremonies And Activities
<u>5132</u>	<u>Dress and Grooming</u>
5141.31	Immunizations
5141.31	Immunizations
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
6111	School Calendar
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6115	Ceremonies And Observances
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study

6143	Courses Of Study
6144	Controversial Issues
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6161.11	Supplementary Instructional Materials
6176	Weekend/Saturday Classes

**Policy 6175: Migrant Education Program**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2003 | **Last Revised Date:** ~~12/03/01/2018~~ 2024 | **Last Reviewed Date:** ~~12/03/01/2018~~ 2024

CSBA NOTE: The following optional policy is for use by districts that have established migrant education programs pursuant to federal Title I, Part C (20 USC 6391-6399) and Education Code 54440-54445. In California, most districts that provide migrant education services operate pursuant to service agreements with regional service centers pursuant to Education Code 54444.1. The district submits a service application to the regional center, which then submits a regional application to the California Department of Education (CDE). The following policy and accompanying administrative regulation should be revised as necessary to reflect the district's agreement with its regional service center.

During the Federal Program Monitoring (FPM) process, CDE will review whether the district is fulfilling the major legal requirements for implementation of the program. Education Code 51225.2 describes this group of highly mobile students as "a pupil who is a migratory child" and CDE's Uniform Complaint Procedures 2023-24 FPM instrument describes this group as "pupils who are migratory", which is reflected in the use of this description throughout the policy. The following policy may be revised to reflect terminology preferred by the district and local community.

Pursuant to Education Code 41601.6, up to two local educational agencies may request authorization from CDE to provide an extended school year program to specified students who are migratory, which includes average daily attendance funding for such students; see the accompanying administrative regulation.

The Governing Board desires to provide a comprehensive program for migrant students who are migratory that attempts to mitigate the impact of educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that may inhibit their ability to succeed in school. The district shall make use of available funds to provide supplementary services for migrant students: who are migratory.

The Superintendent or designee shall cooperate with the regional migrant service center in outreach and identification of eligible migrant students who are migratory and in the provision of migrant education services. The Superintendent or designee shall also coordinate migrant education services with other programs within the district and with other public agencies that serve migrant workers and their families.

CSBA NOTE: 20 USC 6394, as amended by the Every Student Succeeds Act (P.L. 114-95), establishes priority for services for migrant students who are migratory who are failing or at risk of failing to meet state standards or have dropped out of school. According to CDE's 2017 "State Service Delivery Plan," for purposes of establishing priority for services, students are considered to be failing or at risk of failing to achieve state standards if they (1) score at Level 1-2 (standard not met or standard nearly met) on the English language or mathematics summative assessments of the California Assessment of Student Performance and Progress, or (2) score at Levels 1-3

(beginning to moderately developed English skills) on the English Language Proficiency Assessments for California.

The district shall give first priority for services to migrant students **who are migratory** who are failing, or are most at risk of failing, to meet state academic standards or have dropped out of school. (20 USC 6394)

CSBA NOTE: 20 USC 7881 requires that eligible private school students residing within the district be provided an opportunity to receive services on an equitable basis with public school students, as provided below. See AR 6171 - Title I Programs for further information about requirements pertaining to such participation.

The district shall provide services to eligible private school students residing within the district on an equitable basis with participating public school students. (20 USC 7881; 34 CFR 200.87)

CSBA NOTE: Education Code 54443.1 requires that local migrant education programs conduct an individual assessment of the educational and health needs of each migrant student **who is migratory** and prepare a brief individual learning plan listing the services to be provided to each student; see the accompanying administrative regulation. These duties may be performed by either the district or the regional service center depending on their agreement.

The Superintendent or designee shall ensure that each migrant student **who is migratory** is placed at the appropriate grade level upon enrollment and is provided services in accordance with an individual needs assessment and learning plan.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice, including specific indicators that the Governing Board and Superintendent or designee agree to use in evaluating program effectiveness.

The Superintendent or designee shall annually report to the Board regarding student performance on statewide assessments of core academic subjects and English language development, as appropriate, for students enrolled in the district's migrant education program. In addition, the Superintendent or designee shall periodically report to the Board regarding the alignment of district services with the needs of students as identified in student needs assessments conducted pursuant to Education Code 54443.1. As necessary, the Board shall seek technical assistance from the migrant education regional service center and/or make changes in the services provided by the district in order to improve student achievement.

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#### Policy Reference Disclaimer:

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#### State

5 CCR 3080

5 CCR 4600-4670

#### Description

Applicability of uniform complaint procedures to complaints regarding students with disabilities

Uniform complaint procedures

Ed. Code 200	Equal rights and opportunities in state educational institutions
Ed. Code 220	Prohibition of discrimination
Ed. Code 234.7	Student protections relating to immigration and citizenship status
<a href="#">Ed. Code 37220</a>	<a href="#">School calendar</a>
<a href="#">Ed. Code 41601.6</a>	<a href="#">Extended school year program for migratory students</a>
<a href="#">Ed. Code 48204.7</a>	<a href="#">Enrollment</a>
Ed. Code 51225.1	Exemption from district graduation requirements
<a href="#">Ed. Code 51225.2</a>	<a href="#">Transfer of Coursework and Credit</a>
Ed. Code 51225.3	High school graduation requirements
Ed. Code 54440-54445	Migrant children
<b>Federal</b>	<b>Description</b>
20 USC 6311	State plan
<del>20 USC 6381-6381k</del>	<del>Even Start Family Literacy Program</del>
20 USC 6391-6399	Education of migratory children
20 USC 7881	Participation of private school students
34 CFR 200.81-200.89	Migrant education program
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	2017 State Service Delivery Plan
U.S. Department of Education Publication	Education of Migratory Children Under Title I, Part C of the Elementary and Secondary Education Act of 1965, Non-Regulatory Guidance, rev. March 2017
<a href="#">California Child Welfare Council Publication</a>	<a href="#">Partial Credit Model Policy and Practice Recommendations, September 2013</a> ( <a href="https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Meeting-Information/Council-Meeting-Info-Archive/Partial-Credit-Model-Policy-and-Practice-Recommendations.pdf">https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Meeting-Information/Council-Meeting-Info-Archive/Partial-Credit-Model-Policy-and-Practice-Recommendations.pdf</a> )
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Migrant Education Office
Website	U.S. Department of Education, Office of Migrant Education
Website	West Ed, Migrant Student Information Network

Website

CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0500	Accountability
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4131	Staff Development
4231	Staff Development
4331	Staff Development
5111.1	District Residency
5111.1	District Residency
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5132	Dress And Grooming

5132	Dress And Grooming
5141.26	Tuberculosis Testing
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.6	School Health Services
5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
<u>6115</u>	<u>Ceremonies and Observances</u>
6146.1	High School Graduation Requirements
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners



6174	Education For English Learners
6177	Summer Learning Programs
6178	Career Technical Education
6178	Career Technical Education

**Regulation 6175: Migrant Education Program**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2003 | **Last Revised Date:** ~~12/03/01/2019~~ 2024 | **Last Reviewed Date:** ~~12/03/01/2019~~ 2024

CSBA NOTE: The following optional administrative regulation reflects requirements of the migrant education program established pursuant to federal Title I, Part C (20 USC 6391-6399) and Education Code 54440-54445 and should be revised to reflect the district's agreement with the regional service center.

Education Code 51225.2 describes this group of highly mobile students as "a pupil who is a migratory child" and the California Department of Education's (CDE) Uniform Complaint Procedures 2023-24 Federal Program Monitoring (FPM) instrument describes this group as "students who are migratory," which is reflected in the use of this description throughout the administrative regulation. The following administrative regulation may be revised to reflect terminology preferred by the district and local community.

**Eligibility**

CSBA NOTE: Student eligibility for migrant education services is based on criteria delineated in 20 USC 6399 and 34 CFR 200.81. Eligibility is established through an interview conducted by a migrant education recruiter, who is employed by either the regional service center or district and has received specialized training and authorization to identify and recruit families for the migrant education program. Recruitment and identification procedures are detailed in ~~the California Department of Education's (CDE)~~ CDE's 2017 "State Service Delivery Plan."

Pursuant to 34 CFR 200.89, regional service centers are required to annually validate eligibility through the re-interview of parents/guardians of a randomly selected sample of students previously identified as ~~migrant~~ migratory.

Students age 3 to 21 years shall be eligible for the district's migrant education program if they, their parents/guardians, or their spouses are migratory agricultural workers or fishers who, in the preceding 36 months, moved into the district due to economic necessity and engaged in new temporary or seasonal employment or personal subsistence in agriculture or fishing. If such employment was not secured soon after the move, students may be considered ~~migrant~~ students who are migratory if ~~they, their~~ the student, the student's parents/guardians, or their spouses ~~the student's spouse~~ actively sought such new employment and have a recent history of moves for temporary or seasonal agricultural or fishing employment. (20 USC 6399; 34 CFR 200.81)

CSBA NOTE: The last sentence of the following paragraph should be deleted by districts that do not offer classes at the secondary level.

A student who ceases to be a ~~migrant~~ student who is migratory during a school term shall be eligible for services until the end of the term. If comparable services are not available through other programs, a student who is no longer migratory may continue to receive services for one additional school year. Students who were eligible for services in secondary school may continue to be served

through credit accrual programs until graduation. (20 USC 6394)

## Enrollment

**CSBA NOTE:** The following section reflects enrollment rights granted to migrant students pursuant to Education Code 48204.7, as added by AB 1319 (Ch. 458, Statutes of 2019).

A migrant student who is migratory shall be immediately enrolled in the district even if the student: (Education Code 48204.7)

1. Has outstanding fees, fines, textbooks, or other items or monies due to the school last attended
2. Does not have clothing normally required by the school, such as school uniforms
3. Is unable to produce records normally required for enrollment, such as previous academic records, proof of residency, medical records, including, but not limited to, records or other proof of immunization history, or other documentation

If a migrant student who is migratory experiences a change in residence, the student may remain enrolled in the school of origin for the duration of the student's status as a migrant student: who is migratory. (Education Code 48204.7)

If a student's status as a migrant student who is migratory changes during a school year, the Superintendent or designee shall allow the student to continue at the school of origin through the duration of that school year or, if the student is enrolled in a high school, through graduation. (Education Code 48204.7)

A migrant student who is migratory and is transitioning between school grade levels shall be allowed to continue in the district of origin in the same attendance area to provide the student the benefit of matriculating with peers in accordance with the established feeder patterns of school districts. A migrant student who is migratory and is transitioning to a middle school or high school designated for matriculation in another school district shall be allowed to enroll in that school. (Education Code 48204.7)

The Superintendent or designee shall inform a migrant student who is migratory and the student's parent/guardian of the impact of remaining in the school of origin on the student's eligibility to receive migrant education services pursuant to Education Code 54440-54445. (Education Code 48204.7)

The Superintendent or designee may, but is not required to, provide transportation to enable a migrant student who is migratory to attend the school of origin, unless otherwise required by federal law, or provide programs for online instruction as a substitute for physical attendance. (Education Code 48204.7)

## Student Records

**CSBA NOTE:** Pursuant to 34 CFR 200.89, CDE and agencies operating migrant education programs must maintain a Certificate of Eligibility form and any additional documentation needed to confirm

each student's eligibility.

Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members, except as required by law or to administer a state or federally supported educational program. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement. See BP/AR 5145.13 - Response to Immigration Enforcement.

The Superintendent or designee shall maintain records documenting the eligibility of students enrolled in the district's migrant education program. However, the district shall not collect information or documents regarding the citizenship or immigration status of students or their family members for the purpose of determining eligibility for migrant education services.

CSBA NOTE: 20 USC 6398 requires districts receiving migrant education funds to make student records available at no cost to another district that requests the records, if the request is made to **meet the needs of a migrant student who is migratory**. State law requiring the transfer of records for all students is reflected in BP/AR 5125 - Student Records. In California, the Migrant Student Information Network, developed and maintained by WestEd, assists CDE and each regional center with ~~migrant student~~ data collection and reporting **regarding students who are migratory**. See the **section "Transfer of Coursework and Credits" below for the transfer of the transcript of a high school student who is migratory**.

The Superintendent or designee shall acquire education and health records from ~~migrant students'~~ **the previous school districts of a student who is migratory**, as appropriate.

When a ~~migrant~~ student **who is migratory** transfers to another district, the student's records shall be provided to the receiving district upon request at no cost in order to assist that district in meeting the needs of the student. (20 USC 6398)

### Program Components

CSBA NOTE: The following section may be revised to reflect the district's service agreement with the regional service center.

The migrant education program shall include all of the following components: (Education Code 54443.1)

1. A general needs assessment summarizing the needs of the population to be served
2. A comprehensive program to meet the educational, health, and related needs of participating students which supplements the district program and includes, but is not limited to:
  - a. Instructional services, including academic, remedial and compensatory, bilingual-crosscultural, and career technical instruction
  - b. Counseling and career education services
  - c. Preschool services in accordance with Education Code 54443

- d. Other educational services that are not otherwise available in sufficient quantity or quality to eligible migrant students who are migratory
  - e. The acquisition of instructional materials and equipment necessary to adequately provide the appropriate services
  - f. Other related services to meet the special needs of eligible migrant students who are migratory to enable them to participate effectively in instructional services
  - g. The coordination and teaming of existing resources serving migrant students who are migratory, such as bilingual-crosscultural education, health screening, and compensatory education
3. Individual assessment of the educational and relevant health needs of each participating student, within 30 days of enrollment, including assessments concurrently provided pursuant to compensatory education, bilingual-crosscultural education, school improvement programs, and other programs serving the student
  4. A brief individual learning plan listing the services to be provided to each student, which shall be given to the parent/guardian in writing or at a parent/guardian conference, annually and when the student moves to a new district
  5. Staffing and staff development plans and practices to meet the needs of students and implement the program
  6. Parent/guardian and community involvement as specified in Education Code 54444.2, including, but not necessarily limited to, the establishment of a parent/guardian advisory council to actively involve parents/guardians in planning, operating, and evaluating the district's migrant education program

CSBA NOTE: 20 USC 6394 requires "the same" parent involvement in migrant education programs as is required for Title I programs for disadvantaged students (see BP/AR 6020 - Parent Involvement), unless extraordinary circumstances make such provision impractical.

7. The migrant education program shall provide for the same opportunities for parent/guardian involvement that are provided to parents/guardians for federal Title I programs. (20 USC 6394)
8. Evaluations which include annual student progress and overall program effectiveness and quality control reports

CSBA NOTE: The following optional paragraph is for use by districts that offer a Migrant Education Even Start family literacy program pursuant to 20 USC 6381-6381k and 34 CFR 200.80 and may be revised to reflect district practice.

Contingent upon funding, the district shall provide home-based and/or school-based family literacy services to migrant families to enhance literacy levels, parenting skills, and English language skills of parents/guardians.

#### **Summer School and Extended School Year Program**

CSBA NOTE: Pursuant to Education Code 54444.3, each district receiving federal migrant education funding is required to conduct summer school programs for eligible students who are migratory. Before establishing the program, the district must submit an application for approval to the Superintendent of Public Instruction. The following section may be revised to reflect the grade levels offered by the district.

The district shall conduct summer school program(s) for eligible ~~migrant~~ students who are migratory. The summer school program shall respond to the individual needs of participating students and shall build on and be consistent with the instructional programs offered to these students during the regular school year. Coursework shall be of the same level of difficulty in each subject as that provided to students enrolled in regular classes of instruction within the district in the preceding year. (Education Code 54444.3)

Teachers in the summer school program shall have cultural training or background and understanding of the special needs of ~~migrant~~ students who are migratory and possess the proper credential for the subjects and grade levels to which they are assigned. (Education Code 54444.3)

The program shall comply with the following requirements for instructional time: (Education Code 54444.3)

1. For kindergarten class, a minimum of 180 minutes per day, including recesses, for not less than 20 instructional days
2. For grades 1-8, a minimum of 200 minutes per day, including recesses and passing time but excluding noon intermissions, for not less than 20 instructional days
3. For grades 7-12, a minimum of 240 minutes per day, including passing time but excluding noon intermissions, for not less than 30 instructional days

CSBA NOTE: Pursuant to Education Code 54444.3, holidays on which schools are required to be closed, as specified in Education Code 37220, may be deducted from the required number of teaching days. For more information regarding holidays on which schools are required to be closed, see AR 6115 – Ceremonies and Observances.

The number of instructional days may be less than as described above if, during the summer school program, there is a holiday for which schools are required to be closed. (Education Code 37220, 54444.3).

When district facilities that are suitable for the summer climate are available, the district shall make facilities available at cost to other agencies that request facilities for the operation of migrant summer school programs, unless just cause for denial exists. When approved by the Superintendent of Public Instruction, the district may jointly offer facilities with a neighboring district to meet the needs of the migrant summer school program for the entire area. (Education Code 54444.3)

CSBA NOTE: Pursuant to Education Code 41601.6, to mitigate lost instructional time due to family movement related to migratory agricultural employment, up to two local educational agencies may request authorization from CDE to provide an extended school year program to students who are migratory who, due to family movement, enroll in transitional kindergarten, kindergarten, or any of grades 1-6, on or after March 1 of the school year and depart on or before December 1 of the next

school year, which includes the receipt of specified average daily attendance funding for such students.

If the district receives authorization and average daily attendance funding from the California Department of Education to provide an extended school year program to students who are migratory who, due to family movement, enroll in transitional kindergarten, kindergarten, or any of grades 1-6, on or after March 1 of the school year and depart on or before December 1 of the next school year, the Superintendent or designee shall operate the program in accordance with Education Code 41601.6. (Education Code 41601.6)

#### Transfer of Coursework and Credits

CSBA NOTE: The following section is for use by districts maintaining high schools. Education Code 51225.2 addresses the transferability of coursework and credits completed by a student enrolled in a migrant education program, as provided below.

Education Code 51225.2 requires the transferring school to include in the student's educational record a determination of days of enrollment and/or seat time and an official transcript with full and partial credits earned, or any measure of full or partial coursework being satisfactorily completed.

When a student enrolled in a migrant education program transfers into a district school, the district will receive an official transcript from the transferring school or district which reflects full and partial credits and grades earned by the student and includes: (Education Code 51225.2)

1. A determination of the days of enrollment and/or seat time, if applicable, for all full and partial credits earned based on any measure of full or partial coursework being satisfactorily completed

Partial coursework satisfactorily completed includes any portion of an individual course, even if the student did not complete the entire course

2. Separate listings for credits and grades earned at each school and local educational agency so it is clear where credits and grades were earned
3. A complete record of the student's seat time, including both period attendance and days of enrollment

The district shall transfer the credits and grades from the transferring school's transcript onto an official district transcript in the same manner as described in Item #2, above. (Education Code 51225.2)

If the Principal or designee has knowledge that the transcript from the transferring school may not include certain credits or grades, the Principal or designee shall contact the prior school within two business days to request that the full or partial credits be issued, which shall then be issued and provided by the prior school along with all academic and other records within two business days of the request. (Education Code 51225.2)

The district shall accept and issue full credit for any coursework that the student who is migratory

has satisfactorily completed while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school.

CSBA NOTE: Pursuant to Education Code 51225.2, districts are not authorized to require a student who is migratory who has completed an entire course to retake the course.

If the entire course was completed, the district shall not require the student who is migratory to retake the course. (Education Code 51225.2)

If the entire course was not completed at the previous school, the student who is migratory shall be issued partial credit for the coursework completed and shall be required to take the uncompleted portion of the course. However, the district may require the student who is migratory to retake the portion of the course completed if, in consultation with the educational rights holder for the student who is migratory, the district finds that the student who is migratory is reasonably able to complete the requirements in time to graduate from high school. Whenever partial credit is issued to a student who is migratory in any particular course, the student who is migratory shall be enrolled in the same or equivalent course, if applicable, to enable the completion of the entire course. (Education Code 51225.2)

CSBA NOTE: Although Education Code 51225.2 requires districts to award partial credits to students who are migratory who transfer from school to school, there is no uniform system for calculating and awarding partial credits. To ensure consistency in the treatment of foster youth, the California Child Welfare Council, in its, "Partial Credit Model Policy and Practice Recommendations," available on its website, recommends the approach specified in the following optional paragraph, which may be revised to reflect district practice.

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject. Partial credits and grades earned by a student shall be included on the student's official transcript within two business days of the district's notification of the student's transfer, as required under Education Code 49069.5.

In no event shall the district prevent a student who is migratory from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

### Applicability of Graduation Requirements

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

To obtain a high school diploma, ~~migrant students~~ a student who is migratory shall complete all courses required by Education Code 51225.3 and shall generally fulfill any additional local graduation requirements prescribed by the Board.

CSBA NOTE: Whenever a migrant student transfers between districts or schools in grades 11-12, Education Code 51225.1 exempts such students from the requirement to complete district-established graduation requirements that are in addition to the state requirements, under the conditions described below. Also see BP 6146.1 - High School Graduation Requirements.

However, when a migrant student who is migratory has completed the second year of high school and transfers into the district or transfers between high schools within the district school, the



student shall be exempted from all district-adopted coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of the student's fourth year of high school. Within 30 calendar days of the student's transfer, the Superintendent or designee shall notify the student and the ~~student's~~student's parent/guardian of the availability of the exemption and whether the student qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the termination of the court's jurisdiction over the student no longer meets the definition of a migrant student. (Education Code 51225.1)

**CSBA NOTE: Pursuant to Education Code 51225.1, to determine whether a student with significant gaps in school attendance is in the third or fourth year of high school, the student's age as compared to the average age of students in the third or fourth year of high school may be used.**

To determine whether a ~~migrant~~ student is in the third or fourth year of high school, the district shall use either the number of credits the student has earned as of the date of the transfer ~~or the length of school enrollment, whichever qualifies the student for the exemption.~~ (Education Code 51225.1) , the length of school enrollment, or, for a student with significant gaps in school attendance, the student's age as compared to the average age of students in the third or fourth year of high school, whichever qualifies the student for the exemption. (Education Code 51225.1)

The Superintendent or designee shall notify any migrant student who is granted an exemption and the student's parent/guardian how any requirements that are waived will affect the student's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges. (Education Code 51225.1)

The district shall not require or request a migrant student to transfer schools in order to qualify for an exemption, and no request for a transfer solely to qualify for an exemption shall be made by a migrant student or parent/guardian. (Education Code 51225.1)

If a migrant student is exempted from local graduation requirements, the exemption shall continue to apply after the student no longer meets the definition of a migrant student if the student is still enrolled in school or transfers to another school or district. (Education Code 51225.1)

Upon making a finding that a migrant student is reasonably able to complete district graduation requirements within a fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

**CSBA NOTE: Education Code 51225.1 requires the district to exempt a student who qualifies for an exemption from district-established graduation requirements, under the circumstances described below.**

If a student who is migratory was not properly notified of an exemption, declined the exemption, or was not previously exempted, the student or the student's educational rights holder may request the exemption and parent/guardian of the the Superintendent or designee shall exempt the student within 30 days of the request. A student may request the exemption even if the student is no longer a student who is migratory. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1 the district is required to reevaluate a student's eligibility for an exemption from district-established graduation requirements, as described below.

When the Superintendent or designee determines that a student who transferred into a district school is reasonably able to complete district-established graduation requirements by the end of the student's fourth year of high school, the student shall not be exempted from those requirements. Within 30 calendar days of the following academic year, the student shall be reevaluated based on the student's course completion status at the time, to determine if the student continues to be reasonably able to complete the district-established graduation requirements in time to graduate by the end of the student's fourth year of high school. Written notice as to whether the student then qualifies for exemption shall be provided to the student, the student's educational rights holder, and if applicable, to the student's social worker or probation officer. (Education Code 51225.1)

If, upon reevaluation, it is determined that the student who is migratory is not reasonably able to complete the district-established graduation requirements in time to graduate from high school by the end of the student's fourth year of high school, the Superintendent or designee shall provide the student with the option to remain in receive an exemption from district-established graduation requirements or stay in school for a fifth year to complete the district's district-established graduation requirements upon agreement with the student, or if under 18 years of age, the student's educational rights holder, and shall provide notifications in accordance with Education Code 51225.1. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, the district is required to consult with a student who is migratory who is granted an exemption from district-established graduation requirements and the student's educational rights holder, as described below.

When a student who is migratory is exempted from district-established graduation requirements, the Superintendent or designee shall consult with the student and the student's educational rights holder about the following: (Education Code 51225.1)

1. Discussion of how any requirements that are waived may affect the student's postsecondary education or vocation plans, including the ability to gain admission to a postsecondary educational institution
2. Discussion and information about other options available to the student, including, but not limited to, a fifth year of high school, possible credit recovery, and any transfer opportunities available through the California Community Colleges
3. Consideration of the student's academic data and any other information relevant to making an informed decision on whether to accept the exemption

The district shall not require or request a student who is migratory to transfer schools in order to qualify for an exemption and shall not grant any request made by a student who is migratory or the student's parent/guardian for a transfer solely to qualify for an exemption. (Education Code 51225.1)

CSBA NOTE: Education Code 51225.1 prohibits the district from requiring a student who is eligible for an exemption from district-established graduation requirements from accepting the exemption or being denied enrollment, as described below.

The Superintendent or designee shall not require a student who is migratory who is eligible for an exemption from district-established graduation requirements and would otherwise be entitled to remain in attendance at the school, to accept the exemption or be denied enrollment in, or the ability to complete, courses for which the student is otherwise eligible, including courses necessary to attend an institution of higher education, regardless of whether such courses are required for statewide graduation requirements. (Education Code 51225.1)

CSBA NOTE: Education Code 51225.1 prohibits the district from revoking a student's exemption from district-established graduation requirements.

If a student who is migratory is exempted from district-established graduation requirements, the exemption shall not be revoked. Additionally, the exemption shall continue to apply after the student no longer meets the definition of a student who is migratory while still enrolled in the school or if the student transfers to another school, including a charter school, or school district. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, the district may not require or request a student who is exempted from district-established graduation requirements and completes statewide coursework requirements before the end of the student's fourth year of high school to graduate early, as described below.

The Superintendent or designee shall not require or request that an eligible student who is exempted from district-established graduation requirements and who completes the statewide coursework requirements before the end of the fourth year of high school, and would otherwise be entitled to remain in school, to graduate before the end of the student's fourth year of high school. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, if the district determines that a student who is eligible for the exemption from district-established graduation requirements is reasonably able to complete those requirements in time to graduate from high school by the end of the student's fifth year, the district is required to provide the following.

Upon making a finding that a student who is migratory is reasonably able to complete district-established graduation requirements within the fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

1. Inform Consult with the student and, if under 18 years of age, the student's educational rights holder, of the option to remain in school for a fifth year to complete the district-established graduation requirements and how that will affect the student's ability to gain admission to a postsecondary educational institution
2. Provide Consult with and provide information to the student about transfer opportunities available through the California Community Colleges
3. Upon agreement with the student or parent/guardian with the student's educational rights holder if under 18 years of age, permit the student to stay in school for a fifth year to complete the district's district-established graduation requirements

CSBA NOTE: Pursuant to Education Code 51225.1, until January 1, 2028, when a student who is migratory has completed the second year of high school transfers into the district or transfers between high schools within the district, and is not reasonably able to complete the district-established graduation requirements, but is reasonably able to complete the statewide coursework requirements, within the student's fifth year of high school, the district is required to exempt the student from the district-established graduation requirements and provide the student with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, consultation with the student and the student's educational rights holder is required, as provided below.

When a student who is migratory has completed the second year of high school transfers into the district or between high schools within the district, and the Superintendent or designee determines that the student is not reasonably able to complete the district-established graduation requirements within the student's fifth year of high school but is reasonably able to complete the statewide coursework requirements within the fifth year of high school, the student shall be exempted from all district-established graduation requirements and be provided with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, the Superintendent or designee shall consult with the student and the student's educational rights holder, regarding the following: (Education Code 51225.1)

1. The student's option to remain in school for a fifth year to complete statewide coursework requirements
2. The effect of waiving the district-established requirements and remaining in school for a fifth year on the student's postsecondary education or vocation plans, including the ability to gain admission to an institution of higher education
3. Other options available to the student, including, but not limited to, possible credit recovery, and any transfer opportunities available through the California Community Colleges
4. The student's academic data and any other information relevant to making an informed decision on whether to accept the exemption and option to remain in school for a fifth year to complete the statewide coursework requirements

### **Parent Advisory Council**

The parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant students who are migratory and shall be elected by the parents/guardians of students enrolled in the district's migrant education program. The composition of the council shall be determined by the parents/guardians at a general meeting to which all parents/guardians of participating students shall be invited. The parents/guardians shall be informed, in a language they understand, that they have the sole authority to decide on the composition of the council. (Education Code 51444.2)

At least two-thirds of the advisory council shall consist of parents/guardians of ~~migrant~~ students who are migratory. (Education Code 54444.2)

All parent/guardian candidates for the council shall be nominated by parents/guardians. Nonparent

candidates, such as teachers, administrators, other school personnel, or students, shall be nominated by the groups they represent. All other community candidates shall be nominated by the parents/guardians. (Education Code 54444.2)

The parent/guardian advisory council shall meet at least six times during the year and shall: (Education Code 54444.4)

1. Establish program goals, objectives, and priorities
2. Review annual needs assessments, program activities for each school, and individual learning plans
3. Advise on the selection, development, and reassignment of migrant education program staff
4. Participate actively in planning and negotiating program applications and service agreements
5. Perform all other responsibilities required under state and federal laws or regulations

The Superintendent or designee shall establish and implement a training program for advisory council members to enable them to carry out their responsibilities. The training program shall be developed in consultation with the council and shall include appropriate training materials in a language understandable to each member. (Education Code 54444.2)

The Superintendent or designee shall provide the council, without charge, a copy of all applicable state and federal migrant education statutes, rules, regulations, guidelines, audits, monitoring reports, and evaluations. Upon request, these materials also shall be provided without charge to each member of the council. (Education Code 54444.2)

### Notification and Complaints

CSBA NOTE: Education Code 51225.1 and 51225.2 provide that complaints of noncompliance with specified requirements related to the educational rights of ~~migrant~~ students who are migratory may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4670. As with other complaints covered under the uniform complaint procedures, a complainant may appeal the district's decision to CDE and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Information regarding the educational rights of ~~migrant~~ students who are migratory, as specified in Education Code 51225.1 and 51225.2, shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 51225.1, 51225.2)

Any complaint that the district has not complied with requirements regarding the education of ~~migrant~~ students who are migratory, as specified in Education Code 51225.1 or 51225.2, may be filed in accordance with the district's procedures in ~~AR~~Administrative Regulation 1312.3 - Uniform Complaint Procedures.

### Policy Reference UPDATE Service

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**Policy Reference Disclaimer:**

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

**State**

5 CCR 3080

**Description**

Applicability of uniform complaint procedures to complaints regarding students with disabilities

5 CCR 4600-4670

Uniform complaint procedures

Ed. Code 200

Equal rights and opportunities in state educational institutions

Ed. Code 220

Prohibition of discrimination

Ed. Code 234.7

Student protections relating to immigration and citizenship status

[Ed. Code 37220](#)

[School calendar](#)

[Ed. Code 41601.6](#)

[Extended school year program for migratory students](#)

[Ed. Code 48204.7](#)

[Enrollment](#)

Ed. Code 51225.1

Exemption from district graduation requirements

[Ed. Code 51225.2](#)

[Transfer of Coursework and Credit](#)

Ed. Code 51225.3

High school graduation requirements

Ed. Code 54440-54445

Migrant children

**Federal**

**Description**

20 USC 6311

State plan

~~20 USC 6381-6381k~~

Even Start Family Literacy Program

20 USC 6391-6399

Education of migratory children

20 USC 7881

Participation of private school students

34 CFR 200.81-200.89

Migrant education program

**Management Resources**

**Description**

California Department of Education  
Publication

2017 State Service Delivery Plan

U.S. Department of Education  
Publication

Education of Migratory Children Under Title I, Part C of the Elementary and Secondary Education Act of 1965, Non-Regulatory Guidance, rev. March 2017

[California Child Welfare Council  
Publication](#)

[Partial Credit Model Policy and Practice Recommendations,  
September 2013  
\(\[582\]\(https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Meeting-Information/Council-</a></a></u></p></div><div data-bbox=\)](#)

Website	<a href="#">Meeting-Info-Archive/Partial-Credit-Model-Policy-and-Practice-Recommendations.pdf</a> CSBA District and County Office of Education Legal Services
Website	California Department of Education, Migrant Education Office
Website	U.S. Department of Education, Office of Migrant Education
Website	West Ed, Migrant Student Information Network
Website	CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0500	Accountability
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4131	Staff Development
4231	Staff Development
4331	Staff Development
5111.1	District Residency
5111.1	District Residency
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy

5113.11	Attendance Supervision
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5132	Dress And Grooming
5132	Dress And Grooming
5141.26	Tuberculosis Testing
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.6	School Health Services
5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
<u>6115</u>	<u>Ceremonies and Observances</u>
6146.1	High School Graduation Requirements
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.2	Guidance/Counseling Services



6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners
6174	Education For English Learners
6177	Summer Learning Programs
6178	Career Technical Education
6178	Career Technical Education

**Bylaw 9320: Meetings And Notices**

**Status: ADOPTED**

**Original Adopted Date:** 03/01/2008 | **Last Revised Date:** 03/01/~~2023~~2024 | **Last Reviewed Date:** 03/01/~~2023~~2024

Meetings of the Governing Board are conducted for the purpose of accomplishing district business. In accordance with state applicable open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, Board meetings shall provide ~~opportunities~~the opportunity for questions and comments by members of the public to directly address the Board. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, and administrative regulations.

A Board meeting exists whenever a majority of Board members gather at the same time and location, including teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the Board. (Government Code 54952.2)

**CSBA NOTE:** The Brown Act prohibits serial meetings, defined under Government Code 54952.2 as a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of district business.

This prohibition against serial meetings also applies to communications via technology. Email exchanges, text/chat threads, or comments posted on a blog or social media account that result in a majority of the Governing Board "discussing among themselves" an item within the subject matter jurisdiction of the Board could result in a Brown Act violation. Pursuant to Government Code 54952.2, Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. ~~Consequently~~Additionally, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board. See BB 9012 - Board Member Electronic Communications.

In 84 Ops.Cal.Atty.Gen. 30 (2001), the Attorney General opined that Government Code 54952.2 prohibits a majority of the Board from sending emails to each other to develop a collective concurrence as to action to be taken by the Board even if the emails are (1) sent to the secretary and chairperson, (2) posted on the district's ~~web site~~website, and (3) distributed (in a printed version) at the next meeting. Although the Attorney General recognized that those three conditions would allow the deliberations to be conducted, to some extent, "in public," the emails were prohibited by the Brown Act because all debate would be completed before the meeting and members of the public who did not have Internet access would be excluded from the debate.

In accordance with law and as specified in Board Bylaw 9012 - Board Member Electronic Communications, a majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

CSBA NOTE: Government Code 54952.2 specifies that briefings between staff and Board members are permissible in order to answer questions or to provide information, as long as the briefing is not used to communicate the comments or position of any other Board member.

However, an employee the Superintendent or district official designee may engage in separate conversations or communications with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

CSBA NOTE: Government Code 54953.2 requires that all Board meetings meet the protections of the Americans with Disabilities Act (ADA) (42 USC 12132) and implementing regulations (28 CFR 35.160, 36.303). Such protections require the district to ensure that the meeting is accessible to persons with disabilities and, upon request, to provide disability-related accommodations, such as auxiliary aids and services. Auxiliary aids and services may include accommodations at the actual meeting, such as a sign-language interpreter, or accommodations to the supporting documentation, such as Braille translation of the agenda packet. Government Code 54954.2 requires that the agenda specify how, when, and to whom a request for accommodation should be made; see BB 9322 - Agenda/Meeting Materials.

Government Code 54953, as amended by AB 2449 (Ch. 285, Statutes of 2022), requires boards the Board to maintain and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the ADA, and to resolve any doubt in favor of accessibility.

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. Any doubt about a request for accommodation shall be resolved in favor of accessibility. (Government Code 54953, 54953.2, 54954.1, 54954.2) Notice of the procedure for receiving and resolving such requests for accommodation described above shall be given in each instance in which notice of the time of a meeting is otherwise given or the agenda for the meeting is otherwise posted. (Government Code 54953, 54953.2, 54954.1, 54954.2)

## Regular Meetings

CSBA NOTE: Education Code 35140 and Government Code 54954 **mandate** the Board to fix the time and place location for its regular meetings by rule and regulation.

The Board shall hold \_\_\_\_\_ regular meeting(s) each month. Regular meetings shall be held at \_\_\_\_\_ p.m. on the \_\_\_\_\_ (day) at the \_\_\_\_\_

Unless otherwise determined by the Board, the Board shall hold \_\_\_\_\_ regular meeting(s) each month starting at \_\_\_\_\_ p.m. on the \_\_\_\_\_ (day(s)) of the month at \_\_\_\_\_ (name of facility and address).

CSBA NOTE: Pursuant to Government Code 54954.2, the agenda for a regular meeting must be posted at least 72 hours prior to the meeting, at a location that is freely accessible to the public. Government Code 54954.2 also requires that the agenda be posted on the district's web site, if it has one. Any district that does not have a web site should delete the reference to it in the following paragraph: website. Other posting requirements may apply where Board members are participating by teleconference as specified below.

The Attorney General has determined in 78 Ops.Cal.Atty.Gen. 327 (1995) that weekend hours may be counted as part of the 72-hour period for posting of the agenda prior to a regular meeting. In the same opinion, the Attorney General found that the term "freely accessible" requires that the agenda be posted in a location where it can be read by the public at any time during the 72 hours immediately preceding the meeting. For example, if a building where the agenda is posted is closed during the evening hours, the agenda must also be posted in a location accessible during evening hours, such as a lighted display case outside of the building. The Attorney General also opined in 88 Ops.Cal.Atty.Gen. 218 (2005) that the agenda may be posted on a touch screen electronic kiosk, in lieu of a paper copy on a bulletin board, as long as the kiosk is accessible without charge to the public 24 hours a day, seven days a week.

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public and on the district's web site website (Government Code 54954.2)

CSBA NOTE: Pursuant to Government Code 54957.5, the agenda must list the address where the public can inspect agenda materials that are distributed to Board members less than 72 hours before a regular meeting. Pursuant to Government Code 54957.5, as amended by AB 2647 (Ch. 971, Statutes of 2022), when agenda materials are distributed to all or a majority of the Board less than 72 hours before a regular meeting and outside of regular business hours, the materials may be posted on the district's web site website in satisfaction of the Brown Act if specified requirements are met. Districts with questions regarding this exception are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel. Also see BB 9322 - Agenda/Meeting Materials.

In addition, pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170 215), agenda materials related to an open session of a Board's regular meeting are "public records" and are subject to the inspection ~~of~~ by any member of the public. For a list of documents subject to disclosure by the district, see as specified in BP/AR 1340 - Access to District Records.

~~Whenever~~ Consistent with Government Code 54957.5 and Board Bylaw 9322 - Agenda/Meeting Materials, whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose ~~or~~ The records shall be posted on the district web site, consistent with Government Code 54957.5, website at the time the materials are distributed to all or a majority of the Board. (Government Code 54957.5) if distributed outside of business hours.

## Special Meetings

CSBA NOTE: Education Code 35144 and Government Code 54956 allow the Board to hold special meetings to address any matter that requires timely action. For example, the Board may hold a special meeting to discuss the need for an emergency state apportionment when the district is in financial distress; see BP 3460 - Financial Reports and Accountability. However, pursuant to Government Code 54956, certain specified matters, as described below, may not be addressed in a special meeting. CSBA NOTE: Government Code 54956 permits the Board president or a majority of the Board to call a special meeting. When a majority of the Board has requested a special meeting on the same specific topic, the Superintendent or designee shall inform the Board and the meeting shall be organized and called. If an individual Board member desires a special meeting on a specific topic that has not been called by the Board president, the Board member should inform the Superintendent or designee rather than other Board members in order to comply with the Brown Act.

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding on any topic within the salary, salary schedule, or other compensation subject matter jurisdiction of the Superintendent, assistant superintendent, or other management employee Board unless otherwise prohibited by law or as described specified in Government Code 3511.1.BB 9323.2 - Actions by the Board. (Government Code 54956)

CSBA NOTE: Pursuant to Government Code 54956, written notice of a special meeting may be delivered personally or by other means, including email or fax. Government Code 54956 requires any district that has its own web site to also post the notice on its web site. Any district that does not have its own web site should delete reference to it in the following paragraph.

Written At least 24 hours before the time of the meeting, written notice of special meetings shall be delivered personally or by any other means to all Board members and the local media who have requested such notice in writing. The notice also shall be posted on the district's web site. The notice shall be received website, and, at least 24 hours before the time of the meeting. The notice shall also be posted at least 24 hours before the meeting, in a location freely accessible to the public. The notice shall specify the time and location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. (Education Code 35144; Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

### Emergency Meetings

CSBA NOTE: Government Code 54956.5 authorizes a closed session during emergency meetings, as long as two-thirds of the members present at the meeting agree on the need for the closed session or, if less than two-thirds of the members are present, by unanimous vote of the members present. See BB 9321 - Closed Session and E(1) 9323.2 - Actions by the Board.

In the case of an emergency situation for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. (Government Code 54956.5)

*An emergency situation means either of the following: (Government Code 54956.5)*

- 1.—An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board
- 2.—A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board

The Board may meet in closed session during emergency meetings so long as two-thirds of the members present at the meeting agree or, if less than two-thirds of the members are present, by unanimous vote of the members present. (Government Code 54956.5)

The Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification shall be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time notification is given to the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

An emergency means a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board. (Government Code 54956.5)

A dire emergency means a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board. (Government Code 54956.5)

**Adjourned/Continued Meetings**

The Board may adjourn/continue any regular or special meeting to a later time and location that shall be specified in the order of adjournment. Less than a quorum of the Board may adjourn /continue such a meeting. If no Board members are present, the secretary or the clerk may declare the meeting adjourned /continued to a later time and place/location and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment /continuance, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place/location where the meeting was held. (Government Code 54955)

### Study Sessions, Retreats, Public Forums, and Discussion Meetings

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Pursuant to Government Code 54954.2, the Board must still comply with the public notice requirements when holding a study session, retreat, public forum or other such meeting.

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public. The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships. Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion. Any such meeting. All such meetings shall, regardless of title or topic, shall be held as a regular or special meeting, as appropriate, and shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda all other requirements for these regular or special meetings. (Government Code 54956)

### Other Gatherings

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern
3. An open and noticed meeting of another body of the district
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the Board established pursuant to Board Bylaw 9130 - Board Committees, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a Board member and any other person that are not subject to part of a series of communications prohibited by the Brown Act: are permitted.

(Government Code 54952.2)

### Location of Meetings

~~Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135. In addition, meetings shall not be held in a facility which is inaccessible to individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)~~

~~Meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)~~

Unless the Board is holding a teleconference meeting during a proclaimed state of emergency, all meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on nonadversarial collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

~~Meetings exempted from the boundary requirements, as specified in Items #1-10 above~~ All meetings, regardless of location, shall still be subject to comply with the applicable notice and open meeting requirements for regular and special meetings when a quorum of . Additionally, no such



meeting may be held in a facility that prohibits the admittance of any person on the Board attends the meeting-basis of ancestry or any characteristic listed in Government Code 11135, which is inaccessible to individuals with disabilities, or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

If a fire, flood, earthquake, or other emergency renders the posted regular or special meeting place/location unsafe, meetings and the deadline for posting the location has passed, the meeting shall be held for the duration of the emergency at a location designated by the Board president or designee, who shall so inform all news media who have requested notice of special meetings pursuant to Government Code 54956 by the most rapid available means of communication. (Government Code 54954)

### Traditional Teleconferencing

A Board member may participate in any meeting by teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through, which includes both audio and/or video. /audio so long as the following conditions are met: (Government Code 54953)

All teleconferenced meetings shall be

1. All votes taken during the meeting are by rollcall
2. The meeting is conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board. (Government Code 54953) legislative body of a local agency

The Board may use teleconferences for all purposes in connection with any meeting within the Board's subject matter jurisdiction.

All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

3. The location of the Board member participating by teleconference is open and accessible to the public during the meeting, except during closed session, such that members of the public may observe in person the Board member participating by teleconference, at may hear/listen to the meeting to the same extent as the Board member participating by teleconference, and may make public comment during the same portion of the agenda as others members of the public from the same location as the Board member participating by teleconference
4. The location of the Board member participating by teleconference is noted in the agenda and the agenda is posted at the location of the Board member participating by teleconference in advance of the meeting as statutorily required based on the type of meeting
5. During the At least a quorum of the members of the Board shall participate from locations is within the district boundaries. (Government Code 54953)

Unless a Board member participates by teleconference pursuant to the provisions described in the sections "Teleconferencing During a Personal Emergency," "Teleconferencing For 'Just Cause'" or "Teleconferencing During a Proclaimed State of Emergency" below, agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere.

All teleconference locations shall be accessible to the public and the public shall have the right to address the Board directly at each teleconference location. Additional teleconference locations may be provided to the public. (Government Code 54953)

### Teleconferencing During a Personal Emergency

#### Teleconferencing by Individual Board Member Due to Just Cause

CSBA NOTE: Government Code 54953, as amended by AB 2449, 557 (Ch. 534, Statutes of 2023), authorizes a Board member, from January 1, 2023 until January 1, 2026, to attend meetings participate in a meeting by teleconference for just cause, as described below. Districts should be aware that the choice to participate in a meeting by teleconference due to emergency circumstances, as described below, just cause is at the sole discretion of the Board member and can be exercised at any time. Therefore, it is recommended that districts consider including teleconference access, as described below, as part of every meeting. Districts are also encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with Government Code 54953.

Until January 1, 2026, with approval from when there is "just cause" preventing a Board member from attending a Board meeting in person, that Board member may participate in that meeting by teleconference without: (Government Code 54953)

1. Including the majority location of the Board, a Board member may be permitted to participate in a meeting remotely when a physical or family medical emergency prevents the Board member from attending in person. The Board member requesting to appear remotely shall notify the Board member participating by teleconference in the agenda
2. Making the location of the emergency situation as soon as possible, Board member participating by teleconference open and provide a concise accessible to the public
3. Posting the agenda at the location of the Board member participating by teleconference

A Board member may not appear remotely under emergency circumstances for more than 20 percent of the Board's regular meetings or for more than three consecutive months. If the Board meets less than 10 times in a calendar year, a Board member may not appear remotely under emergency circumstances for more than two meetings. (Government Code 54953)

A Board member needing to participate by teleconference for just cause shall notify the Board at the earliest possible opportunity, including at the start of a regular meeting, of the need to do so and include a general description of the circumstances relating to the need to appear by teleconference at the given meeting. (Government Code 54953)

When a Board member is approved to participate remotely due to emergency circumstances, the

Board member is not required to participate from a location which is accessible to the public and the location does not need to be identified on the agenda. (Government Code 54953)

For the Board member to participate by teleconference under this section, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. At least a quorum of the Board participates in person from a singular physical location which is accessible to the public and the location does not need to be clearly identified on the agenda. (Government Code 54953)
3. If permitted to participate remotely, the Board member shall utilize participating by teleconference utilizes both audio and visual technology and publicly disclose, before any action is taken, whether to participate in the meeting

CSBA NOTE: Government Code 54953 requires Board members participating by teleconference due to just cause to publicly disclose whether any individual 18 years of age or older is present at the Board member's location and, if so, the general nature of the member's relationship with each such individual before "any" Board action is taken, but does not specify the frequency of such disclosures. One option is for the Board member to make the initial disclosure at the start of the meeting and then make additional disclosures, if needed, each time an individual 18 years of age or older enters or exits the Board member's location. Another option is for the Board member to make separate disclosures before each Board action. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with this requirement.

4. The Board member participating by teleconference publicly discloses, before any other individuals action is taken, whether any individual 18 years of age or older are is present in the remote location with at the Board member, member's location and the general nature of the member's relationship with such individuals. (Government Code 54953) each such individual
5. The district shall also provide public is able to access to the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the remote platform as well as or service, in person and the addition to public shall be able to offer comment being available in person

The platform or service may require members of the public to register in order to make public comments in real time. so long as the platform or service is not controlled by the district.

6. The agenda shall include for the meeting includes information describing how members of the public can access the platform or service. (Government Code 54953)

~~If a disruption prevents broadcasting the meeting to members of the public using the call-in option or internet-based service option, or a disruption that is within the Board's control prevents~~

members of the public from offering public comments using the call-in option or internet-based service option, the Board shall not take action on agenda items until public access to the meeting is restored. (Government Code 54953)

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

### Teleconferencing for "Just Cause"

CSBA NOTE: Government Code 54953, as amended by AB 2449, authorizes a Board member, from January 1, 2023 until January 1, 2026, to attend meetings by teleconference for just cause, as described below:

A Board member may be permitted to appear remotely, pursuant to the provisions below, A Board member shall be permitted to participate by teleconference for just cause for no more than two meetings per calendar year. A Board member appearing for just cause shall notify the Board at the earliest possible opportunity of the need to participate in the meeting remotely, including at the start of a regular meeting. (Government Code 54953)

*Just Cause* For purposes of this section, "just cause" may exist for any of the following: (Government Code 54953)

1. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a Board member to participate remotely
2. A contagious illness prevents a Board member from attending in person
3. A Board member has a need related to a physical or mental disability not otherwise reasonably accommodated
4. A Board member is traveling while on official business of the Board or another state or local agency

When a Board member participates remotely for just cause, the Board member is not required to participate from a location which is accessible to the public and the location does not need to be identified on the agenda. (Government Code 54953)

If the Board member participates remotely, the Board member shall utilize both audio and visual technology and publicly disclose, before any action is taken, whether any other individuals 18 years or older are present in the remote location with the Board member, and the general nature of the member's relationship with such individuals. (Government Code 54953)

The district shall also provide public access to the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with public comment being allowed via the remote platform as well as in person and the public shall be able to offer comments in real time. The agenda shall include information describing how members of the public can access the platform. (Government Code 54953)

If a disruption prevents broadcasting the meeting to members of the public using the call-in option

or internet-based service option, or a disruption that is within the Board's control prevents members of the public from offering public comments using the call-in option or internet-based service option, the Board shall not take action on agenda items until public access to the meeting is restored. (Government Code 54953)

### Teleconferencing During a Proclaimed State of Emergency

CSBA NOTE: Pursuant to Government Code 54953, boards are authorized, until January 1, 2024, to conduct board meetings by teleconference as specified below when holding a board meeting during a proclaimed state of emergency pursuant to Government Code 8625-8629 when any of the following circumstance exist: (1) state or local officials have imposed or recommended measures to promote social distancing; (2) to determine whether, as a result of an emergency, meeting in person would present imminent risks to the health or safety of attendees; or (3) when it has been determined, as a result of an emergency, that meeting in person would impose such risks.

California's COVID-19 State of Emergency ended on February 28, 2023. However, a Board may continue to conduct Board meetings by teleconference until January 1, 2024 if there is a proclaimed state of emergency (e.g. a natural disaster) and it meets all of the necessary requirements of Government Code 54953.

While a resolution is not required by law to make findings required by Government Code 54953, CSBA offers sample resolutions available on its web site for (1) recognizing a state of emergency and authorizing teleconferenced meetings and (2) recognizing a state of emergency and re-authorizing teleconferenced meetings. CSBA recommends that if resolutions are not utilized, the motion and findings to authorize or reauthorize emergency teleconferenced meetings are included in the meeting minutes.

Until January 1, 2024, the Board may conduct Board meetings by teleconference without posting agendas at all teleconference locations, identifying teleconference locations in meeting notices and agendas, allowing public access to each teleconference location, providing an opportunity for members of the public to address the Board directly at each teleconference location, and ensuring that at least a quorum of the Board participate from locations within district boundaries, during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. State or local officials have imposed or recommended measures to promote social distancing
2. For the purpose of determining, by majority vote, whether as the result of the emergency meeting in person would present imminent risks to the health or safety of attendees
3. When it has been determined, by majority vote as described in Item #2 above, that as a result of the emergency meeting in person would present imminent risks to the health or safety of attendees

To conduct a teleconference meeting for these purposes the following requirements shall be satisfied: (Government Code 54953)

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act

- ~~2. The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option~~

~~Members of the public may be required to register to log in to a meeting when making public comments through an internet web site or other online platform that is operated by a third-party and not under the control of the Board.~~

- ~~3. Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3~~
- ~~4. Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time~~
- ~~5. Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed~~
- ~~6. If during a Board meeting a disruption occurs which prevents the district from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the district's control that prevents members of the public from offering public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored~~

~~The district may, in its discretion, provide a physical location from which the public may attend or comment. (Government Code 54953)~~

~~The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)~~

- ~~1. The state of emergency continues to directly impact the ability of the Board to meet safely in person~~
- ~~2. State or local officials continue to impose or recommend measures to promote social distancing~~

#### Teleconferencing by Individual Board Member Due to Emergency Circumstances

CSBA NOTE: Government Code 54953, as amended by AB 557 (Ch. 534, Statutes of 2023), authorizes a Board member, until January 1, 2026, to participate in a meeting by teleconference due to emergency circumstances, as described below.

Until January 1, 2026, when a physical or family medical emergency would prevent a Board member from attending a Board meeting in person, that Board member may request to participate in such

meeting by teleconference. The Board member requesting to appear remotely shall submit the request as soon as possible and include a concise general description of the emergency that necessitated the request. The Board member shall not be required to disclose any disability, medical diagnosis, or personal medical information exempt under existing law. (Government Code 54953)

If the request is received timely, it shall be added to the agenda as the first item of business at the meeting, even before any closed session items. If the request is not received timely, it shall be taken up by the Board before the first item of business at the meeting. The request shall only be granted upon a vote by the majority of the Board. (Government Code 54953, 54954.2)

If the request is granted by the Board, the Board member may participate by teleconference without: (Government Code 54953)

1. Including the location of the Board member participating by teleconference in the agenda
2. Making the location of the Board member participating by teleconference open and accessible to the public
3. Posting the agenda at the location of the Board member participating by teleconference

For the Board member to participate by teleconference due to emergency circumstances, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. At least a quorum of the Board participates in person from a singular physical location clearly identified on the agenda
3. The Board member participating by teleconference utilizes both audio and visual technology to participate in the meeting

CSBA NOTE: Government Code 54953 requires Board members participating by teleconference due to emergency circumstances to publicly disclose whether any individual 18 years of age or older is present at the Board member's location and, if so, the general nature of the member's relationship with each such individual before "any" Board action is taken, but does not specify the frequency of such disclosures. One option is for the Board member to make the initial disclosure at the start of the meeting and then make additional disclosures, if needed, each time an individual 18 years of age or older enters or exits the Board member's location. Another option is for the Board member to make separate disclosures before each Board action. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with this requirement.

4. The Board member participating by teleconference publicly discloses, before any action is taken, whether any individual 18 years of age or older is present at the Board member's location and the general nature of the member's relationship with each such individual

5. The public is able to access the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the platform or service, in addition to public comment being available in person

The platform or service may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the district.

6. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board shall not take action on any agenda item until the disruption is resolved. (Government Code 54953)

In total, a Board member may not participate by teleconference due to emergency circumstances alone, or together with teleconference due to just cause, as specified above, for more than 20 percent of the Board's regular meetings or for more than three consecutive months. If the Board meets less than 10 times in a calendar year, a Board member may not appear remotely due to emergency circumstances for more than two meetings. (Government Code 54953)

#### Teleconference Meetings During a Proclaimed State of Emergency

CSBA NOTE: Pursuant to Government Code 54953, as amended by AB 557 (Ch. 534, Statutes of 2023), boards are authorized to conduct board meetings by teleconference as specified below when holding a board meeting during a proclaimed state of emergency.

The Board may conduct a Board meeting entirely by teleconference during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. For the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees due to the emergency
2. When the Board has been determined, pursuant to Item #1 above, that meeting in person would present imminent risks to the health or safety of attendees due to the emergency

The Board may hold a meeting by teleconference during a proclaimed state of emergency without: (Government Code 54953):

1. Including the location of the Board members in the agenda
2. Making the locations of Board members open and accessible to the public
3. Posting the agenda at the locations of Board members

For the Board to hold such meeting, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. The public is able to access the meeting via a call-in service or an internet-based platform or service, with real-time public comment being allowed via the platform or service



If an internet-based platform or service is utilized, it may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the district.

3. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

For any public comment period with a time limit, the Board may not close that public comment period or the opportunity to register until the full time for public comment has elapsed. For any other public comment period, the Board shall allow a reasonable amount of time to allow members of the public to provide public comment and to register to do so. (Government Code 54953)

The Board may continue to conduct all meetings by teleconference throughout one or more 45-day periods so long as, prior to the beginning of each 45-day period, the Board has reconsidered the circumstances of the state of emergency and determines that it continues to directly impact the ability of the Board to meet safely in person. (Government Code 54953)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
Ed. Code 35140	Time and place of meetings
Ed. Code 35143	Annual organizational meetings; date and notice
Ed. Code 35144	Special meeting
Ed. Code 35145	Public meetings
Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35146	Closed sessions; student matters
Ed. Code 35147	Open meeting laws exceptions
Gov. Code 11135	Prohibition of discrimination
Gov. Code 3511.1	Local agency executives
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54953	Oral summary of recommended salary and benefits of superintendent
Gov. Code 54954	Time and place of regular meetings

Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 54956	Special Meetings
Gov. Code 54956.5	Emergency meetings
Gov. Code 7920.000-7930.215	California Public Records Act
Gov. Code 8625-8629	California Emergency Services Act
<b>Federal</b>	<b>Description</b>
28 CFR 35.160	Effective communications for individuals with disabilities
28 CFR 36.303	Nondiscrimination on the basis of disability, public accommodations, auxiliary aids, and services
42 USC 12101-12213	Americans with Disabilities Act
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	78 Ops.Cal.Atty.Gen. 327 (1995)
Attorney General Opinion	79 Ops.Cal.Atty.Gen. 69 (1996)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 181 (2001)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 30 (2001)
Attorney General Opinion	88 Ops.Cal.Atty.Gen. 218 (2005)
Court Decision	Knight First Amendment Institute at Columbia University v. Trump, (2019) 928 F.3d 226
Court Decision	Garnier v. Poway Unified School District, (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208
Court Decision	Wolfe v. City of Fremont, (2006) 144 Cal.App. 4th 533
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
Institute for Local Government Publication	The ABCs of Open Government Laws
League of California Cities Publication	Open and Public V: A Guide to the Ralph M. Brown Act, 2016
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, GAMUT Meetings
Website	Institute for Local Government
Website	League of California Cities
Website	California Attorney General's Office
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0420.4	Charter School Authorization
0420.4	Charter School Authorization
0420.43	Charter School Revocation
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1160	Political Processes
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1330	Use Of School Facilities
1330	Use Of School Facilities
1340	Access To District Records
1340	Access To District Records
1431	Waivers
2000	Concepts And Roles
2111	Superintendent Governance Standards
2121	Superintendent's Contract
2210	Administrative Discretion Regarding Board Policy
3100	Budget
3100	Budget
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
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3311	Bids
3312	Contracts

3314	Payment For Goods And Services
3314	Payment For Goods And Services
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4117.14	Postretirement Employment
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
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4241.6	Concerted Action/Work Stoppage
4312.1	Contracts
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9005	Governance Standards
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9100	Organization
9121	President
9130	Board Committees
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9220	Governing Board Elections
9230	Orientation
9270	Conflict Of Interest

9270-E(1)	Conflict Of Interest
9310	Board Policies
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9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board
9323.2-E(2)	Actions By The Board
9324	Minutes And Recordings
9400	Board Self-Evaluation

**Bylaw 9323.2: Actions By The Board**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2011 | **Last Revised Date:** 03/01/2019 2024 | **Last Reviewed Date:** 03/01/2019 2024

CSBA NOTE: Pursuant to Education Code 35164 and Government Code 54952.6, a simple majority vote of all ~~members~~ the membership of the Governing Board is necessary for an item to carry, even in those cases where some members are absent. ~~Thus~~ or seats are vacant. For instance, for districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy. Education Code 35165 details the effect of a vacancy in districts with a seven-member board. For language regarding vote requirements when a board member abstains, see BB 9323 - Meeting Conduct.

The law specifies However, there are certain board actions as requiring by the Board that require more than a simple majority vote, or that are required to occur, or may not occur, at a certain meeting or type of meeting; see E(1) 9323.2 for a non-exhaustive list of such actions.

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164, 35165)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

**Action on Non-Agenda Items**

CSBA NOTE: The Brown Act (Government Code 54950-54963) generally prohibits any action or discussion of items not on the posted agenda. However, Government Code 54954.2 provides for three ~~four~~ specific and narrow situations in which the Board can act on an item not on the agenda, as specified below. Board members may also briefly respond to questions raised by members of the public concerning items not on the agenda; see BB 9323 - Meeting Conduct.

After publicly identifying the item, ~~the~~ The Board may take action on a subject not appearing on the posted meeting agenda under only after publicly identifying the item and if any one of the following conditions are met. (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

CSBA NOTE: Government Code 54954.2 provides that the Board may take action on a request by a Board member to participate by teleconference due to emergency circumstances pursuant to Government Code 54953 so long as the timing of the request did not allow for sufficient time to place it on the agenda. If the timing of the request did allow for sufficient time to place it on the agenda, it cannot be acted upon unless it was agendaized. For more information regarding Board meetings by teleconference, see Board Bylaw 9320 - Meetings And Notices.

4. Until December 31, 2025, when a Board member requests to participate by teleconference due to emergency circumstances pursuant to Government Code 54953 so long as the timing of the request did not allow for sufficient time to place it on the agenda

#### Challenging Board Actions

CSBA NOTE: Government Code 54960-54960.5 grants authority to the district attorney or any interested person to file a civil action asking the court to order the Board to stop or prevent Brown Act violations specified below. The Board should respond to legal challenges to its actions and consult legal counsel when necessary. a Brown Act violation or to invalidate a prior action taken by the Board. Pursuant to Government Code 54960.5, a court may award court costs and reasonable attorney's fees to a plaintiff who successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies provided in Government Code 54960-54960.2. successful plaintiff. Prior to filing a civil action, the district attorney or interested party must send a written demand to the Board to "cure and correct" the alleged violation or prior action. The Board should consult with CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

The Before seeking to file a civil action to stop or prevent a Brown Act violation or to invalidate a prior action taken by the Board, the district attorney's office or interested person shall first present a demand to "cure and correct" the alleged violation to the district. If the district receives a proper demand from the district attorney's office or any interested person may file to "cure and correct" an action in court for the purpose of: alleged violation of the Brown Act, the Board shall consult with legal counsel on if and how to respond as provided by law. (Government Code 54960, 54960.2)

1. ~~Stopping or preventing the Board's violation or threatened violation of the Brown Act~~
2. ~~Determining the applicability of the Brown Act to ongoing or future threatened Board actions~~

3.—Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:

a.—Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

CSBA NOTE: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.

b.—The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

c.—The action is brought within the time required by Government Code 54960.2.

4.—Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression

5.—Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

CSBA NOTE: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (i.e., declare null and void) actions that violate specific provisions of the Brown Act listed in Government Code 54960.1 and specified below. However, even when the action may normally be subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board action resulted in a contract with a party who detrimentally relied on the action in good faith and without notice of a challenge to its validity), the action may not be invalidated.

Before seeking court action, the person who believes a violation occurred must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1.—Open meeting and teleconferencing (Government Code 54953)

2.—Agenda posting (Government Code 54954.2)



- 3. Closed session item descriptions (Government Code 54954.5)
- 4. New or increased tax assessments (Government Code 54954.6)
- 5. Special meetings (Government Code 54956)
- 6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

- 1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
- 2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
- 3. Take no action. If the Board takes no action within the 30-day period, its inaction shall be considered a decision not to cure or correct the challenged action.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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>
Code of Civil Procedure 1245.240	Eminent domain vote requirements
Code of Civil Procedure 1245.245	Eminent domain; resolution adopting different use
Code of Civil Procedure 425.16	Special motion to strike in connection with a public issue
Ed. Code 15266	School construction bonds
Ed. Code 17466	Declaration of intent to sell or lease real property
Ed. Code 17481	Lease of property with residence for nondistrict purposes

Ed. Code 17510-17512	Leasing for production of gas; resolution requiring unanimous vote
Ed. Code 17546	Private sale of personal property
Ed. Code 17556-17561	Dedication of real property
Ed. Code 35140-35149	Meetings
<u>Ed. Code 35150</u>	<u>Prohibition to terminate superintendent or assistant superintendent at specified meetings or times</u>
Ed. Code 35160-35178.4	Powers and duties
Ed. Code 48660-48661	Community day schools; establishment and restrictions
Gov. Code 53090-53097.5	Regulation of local agencies by counties and cities
Gov. Code 53724	Parcel tax resolution requirements
Gov. Code 53790-53792	Exceeding the budget
Gov. Code 53820-53833	Temporary borrowing
Gov. Code 53850-53858	Temporary borrowing
<u>Gov. Code 54230.5</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
<u>Gov. Code 54230.7</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.6	Action taken; definition
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54960-54960.5	Actions to prevent violations
Gov. Code 65352.2	Communicating and coordinating of school sites
Pub. Cont. Code 20110-20118.44	School district contracts
Pub. Cont. Code 20113	Emergencies; award of contracts without bids
Pub. Cont. Code 20114	Repairs, maintenance, and improvements to district facilities by day labor or force account
Pub. Cont. Code 22034	Uniform Public Construction Cost Accounting Act informal bidding ordinance
Pub. Cont. Code 22035	Repair or replacement of facilities in case of emergency
Pub. Cont. Code 22050	Emergency contracting procedures
Pub. Cont. Code 3400	Bid specifications
<b>Management Resources</b>	<b>Description</b>
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

Court Decision	Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Court Decision	Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109
Court Decision	Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
Court Decision	McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
League of California Cities Publication	Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	California Office of the Attorney General
Website	CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
3260	Fees And Charges
3260	Fees And Charges
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3471	Parcel Taxes
6185	Community Day School
6185	Community Day School
7131	Relations With Local Agencies
7150	Site Selection And Development

7150	Site Selection And Development
7160	Charter School Facilities
7160	Charter School Facilities
7213	School Facilities Improvement Districts
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9005	Governance Standards
9012	Board Member Electronic Communications
9150	Student Board Members
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9324	Minutes And Recordings

**Exhibit 9323.2-E(1): Actions By The Board**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/2016 | **Last Revised Date:** ~~10/03/01/2020~~ 2024 | **Last Reviewed Date:** ~~10/03/01/2020~~ 2024

**RESTRICTIONS ON BOARD ACTIONS REQUIRING A SUPER MAJORITY VOTE**

This exhibit is a non-exhaustive list of the Governing Board actions that require more than a majority vote as well as restrictions and prohibitions on when the Board may take certain actions. Other such actions may exist and may be identified in the future.

**Actions Requiring a Two-Thirds Vote of the Membership of the Board**

CSBA NOTE: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future. CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member governing board will need two board members to vote in favor of the item and a five-member board will need four board members to vote in favor of the item. For a seven-member board, five board members will constitute two-thirds of the board except, pursuant to Education Code 35165, if there are one or two vacancies, in which case four board members will constitute two-thirds of the board.

**Actions Requiring a Two-Thirds Vote of the Board**

CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring the ~~Governing Board's~~ Board's intention to sell or lease real property (Education Code 17466)
2. Resolution declaring the ~~Board's~~ Board's intent to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

CSBA NOTE: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal

year sufficient to meet the payment(s) (Government Code 53821)

6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district so long the proposed use of property is not for nonclassroom facilities (Government Code 53094)
7. When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)
8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. Resolution of intent Decision to issue pursue the authorization and issuance of general obligation bonds with the approval pursuant to paragraph (3) of 55 percent subdivision (b) of Section 1 of Article XIII A of the voters California Constitution and subdivision (b) of Section 18 of Article XVI of the district California Constitution (Education Code 15266)
10. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)
11. ~~Resolution to place a parcel tax on the ballot (Government Code 53724)~~

CSBA NOTE: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

10. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

CSBA NOTE: Item ~~#13~~11 is for use by districts governed by a three-member board that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. For further information, see BP 3311.1 -- Uniform Public Construction Cost Accounting Procedures. Districts with a five- or seven-member board should delete Item #11 below. See Item #4 in the section "Actions Requiring a Four-Fifths Vote of the Board" below for the corresponding language for a district with a five- or seven-member board.

11. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an

emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

#### **Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting**

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

#### **Actions Requiring a Four-Fifths Vote of the Membership of the Board**

CSBA NOTE: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item; and a five-member board will need four board members to vote in favor of the item; and. For a seven-member board will need, six board members to vote in favor will constitute fourth-fifths of the item board except, pursuant to Government Code 35165, if there is one or two vacancies, in which case five or four board members, respectively, will constitute fourth-fifths of the board.

Items #1 and #2 below are different from borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-, 53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

CSBA NOTE: Item #4 is for use by districts governed by a five-member or seven-member board. Districts with a three -member board should delete Item #4 below. See Item #11 in Section "Actions Requiring a Two-Thirds Vote of the Membership of the Board" above for the corresponding language for a district with a three-member board.

Items #4-5 are for use by districts that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the UPCCAA. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.

4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)
5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

**Action ~~Actions~~ Requiring a Four-Fifths Vote of the Board Members Present at the Meeting**

1. ~~Approval~~ **Approval** A four-fifths vote of the Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense. (Government Code 53790-53792)

**Actions Requiring a Unanimous Vote of the Board**

1. Resolution authorizing and prescribing the terms of a lease of district property for extraction and taking of gas not associated with oil (Education Code 17510~~-,~~ 17511)
2. Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

**Action ~~Actions~~ Requiring a Unanimous Vote of the Board Members Present at the Meeting**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

**Actions Required to Occur During a Regular Board Meeting**

1. Termination of the Superintendent or an assistant superintendent without cause (Education Code 35150)
2. Discussion or action regarding the contract, salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1 (Government Code 54956)



## Prohibitions on Certain Board Actions

CSBA NOTE: Pursuant to Education Code 35150, as added by SB 494 (Ch. 875, Statutes of 2023), the Board is prohibited from taking action to terminate the Superintendent or Assistant Superintendent as specified in the following paragraph.

1. Termination of the Superintendent or an assistant superintendent without cause within 30 days after the first convening of the Board after an election at which one or more Board members are elected or recalled (Education Code 35150)

CSBA NOTE: Pursuant to Government Code 54230.7, as added by SB 229 (Ch. 774, Statutes of 2023), districts disposing of surplus land that received a notification of violation from the Department of Housing and Community Development are required to hold an open and public meeting to review and consider the substance of the notice of violation and may not take final action to ratify or approve the proposed disposal until a public meeting is held.

2. When the District is disposing of surplus land and has received a notification from the Department of Housing and Community Development pursuant to Government Code 54230.5 with regard to the surplus land, final action to ratify or approve the proposed disposal of surplus land unless the district holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice

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Ed. Code 17546	Private sale of personal property
Ed. Code 17556-17561	Dedication of real property

Ed. Code 35140-35149	Meetings
<u>Ed. Code 35150</u>	<u>Prohibition to terminate superintendent or assistant superintendent at specified meetings or times</u>
Ed. Code 35160-35178.4	Powers and duties
Ed. Code 48660-48661	Community day schools; establishment and restrictions
Gov. Code 53090-53097.5	Regulation of local agencies by counties and cities
Gov. Code 53724	Parcel tax resolution requirements
Gov. Code 53790-53792	Exceeding the budget
Gov. Code 53820-53833	Temporary borrowing
Gov. Code 53850-53858	Temporary borrowing
<u>Gov. Code 54230.5</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
<u>Gov. Code 54230.7</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.6	Action taken; definition
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54960-54960.5	Actions to prevent violations
Gov. Code 65352.2	Communicating and coordinating of school sites
Pub. Cont. Code 20110-20118.44	School district contracts
Pub. Cont. Code 20113	Emergencies; award of contracts without bids
Pub. Cont. Code 20114	Repairs, maintenance, and improvements to district facilities by day labor or force account
Pub. Cont. Code 22034	Uniform Public Construction Cost Accounting Act informal bidding ordinance
Pub. Cont. Code 22035	Repair or replacement of facilities in case of emergency
Pub. Cont. Code 22050	Emergency contracting procedures
Pub. Cont. Code 3400	Bid specifications
<b>Management Resources</b>	<b>Description</b>
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
Court Decision	Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Court Decision	Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

Court Decision	Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
Court Decision	McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
League of California Cities Publication	Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	California Office of the Attorney General
Website	CSBA

### **Cross References**

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3260	Fees And Charges
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3471	Parcel Taxes
6185	Community Day School
6185	Community Day School
7131	Relations With Local Agencies
7150	Site Selection And Development
7150	Site Selection And Development
7160	Charter School Facilities
7160	Charter School Facilities

7213	School Facilities Improvement Districts
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9005	Governance Standards
9012	Board Member Electronic Communications
9150	Student Board Members
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9324	Minutes And Recordings

**Exhibit 9323.2-E(1): Actions By The Board**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/2016 | **Last Revised Date:** ~~10/03/01/2020~~ 2024 | **Last Reviewed Date:** ~~10/03/01/2020~~ 2024

**RESTRICTIONS ON BOARD ACTIONS REQUIRING A SUPER MAJORITY VOTE**

This exhibit is a non-exhaustive list of the Governing Board actions that require more than a majority vote as well as restrictions and prohibitions on when the Board may take certain actions. Other such actions may exist and may be identified in the future.

**Actions Requiring a Two-Thirds Vote of the Membership of the Board**

CSBA NOTE: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future. CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member governing board will need two board members to vote in favor of the item and a five-member board will need four board members to vote in favor of the item. For a seven-member board, five board members will constitute two-thirds of the board except, pursuant to Education Code 35165, if there are one or two vacancies, in which case four board members will constitute two-thirds of the board.

**Actions Requiring a Two-Thirds Vote of the Board**

CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring the Governing ~~Board's~~ Board's intention to sell or lease real property (Education Code 17466)
2. Resolution declaring the ~~Board's~~ Board's intent to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

CSBA NOTE: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district so long the proposed use of property is not for nonclassroom facilities (Government Code 53094)
7. When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)
8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. ~~Resolution of intent~~ Decision to issue pursue the authorization and issuance of general obligation bonds with the approval pursuant to paragraph (3) of 55 percent subdivision (b) of Section 1 of Article XIII A of the voters California Constitution and subdivision (b) of Section 18 of Article XVI of the district California Constitution (Education Code 15266)
10. ~~Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)~~
11. ~~Resolution to place a parcel tax on the ballot (Government Code 53724)~~

**CSBA NOTE:** Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

10. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

**CSBA NOTE:** Item #~~13~~11 is for use by districts governed by a three-member board that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. For further information, see BP 3311.1 -- Uniform Public Construction Cost Accounting Procedures. Districts with a five- or seven-member board should delete Item #11 below. See Item #4 in the section "Actions Requiring a Four-Fifths Vote of the Board" below for the corresponding language for a district with a five- or seven-member board.

11. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

#### **Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting**

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

#### **Actions Requiring a Four-Fifths Vote of the Membership of the Board**

CSBA NOTE: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item, and a five-member board will need four board members to vote in favor of the item, and. For a seven-member board will need, six board members to vote in favor will constitute fourth-fifths of the item board except, pursuant to Government Code 35165, if there is one or two vacancies, in which case five or four board members, respectively, will constitute fourth-fifths of the board.

Items #1 and #2 below are different from borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-, 53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

CSBA NOTE: Item #4 is for use by districts governed by a five-member or seven-member board. Districts with a three member board should delete Item #4 below. See Item #11 in Section "Actions Requiring a Two-Thirds Vote of the Membership of the Board" above for the corresponding language for a district with a three-member board.

Items #4-5 are for use by districts that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the UPCCAA. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.

4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)
5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

**Action Actions Requiring a Four-Fifths Vote of the Board Members Present at the Meeting**

1. Approval ~~A four-fifths vote of the Board members present at the meeting shall be required to approve~~ the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense. (Government Code 53790-53792)

**Actions Requiring a Unanimous Vote of the Board Actions Requiring a Unanimous Vote of the Membership of the Board**

1. Resolution authorizing and prescribing the terms of a lease of district property for extraction and taking of gas not associated with oil (Education Code 17510-1, 17511)
2. Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

**Action Actions Requiring a Unanimous Vote of the Board Members Present at the Meeting**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

**Actions Required to Occur During a Regular Board Meeting**

1. Termination of the Superintendent or an assistant superintendent without cause (Education Code 35150)



2. Discussion or action regarding the contract, salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1 (Government Code 54956)

**Prohibitions on Certain Board Actions**

**CSBA NOTE:** Pursuant to Education Code 35150, as added by SB 494 (Ch. 875, Statutes of 2023), the Board is prohibited from taking action to terminate the Superintendent or Assistant Superintendent as specified in the following paragraph.

1. Termination of the Superintendent or an assistant superintendent without cause within 30 days after the first convening of the Board after an election at which one or more Board members are elected or recalled (Education Code 35150)

**CSBA NOTE:** Pursuant to Government Code 54230.7, as added by SB 229 (Ch. 774, Statutes of 2023), districts disposing of surplus land that received a notification of violation from the Department of Housing and Community Development are required to hold an open and public meeting to review and consider the substance of the notice of violation and may not take final action to ratify or approve the proposed disposal until a public meeting is held.

2. When the District is disposing of surplus land and has received a notification from the Department of Housing and Community Development pursuant to Government Code 54230.5 with regard to the surplus land, final action to ratify or approve the proposed disposal of surplus land unless the district holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
Code of Civil Procedure 1245.240	Eminent domain vote requirements
Code of Civil Procedure 1245.245	Eminent domain; resolution adopting different use
Code of Civil Procedure 425.16	Special motion to strike in connection with a public issue
Ed. Code 15266	School construction bonds
Ed. Code 17466	Declaration of intent to sell or lease real property
Ed. Code 17481	Lease of property with residence for nondistrict purposes

Ed. Code 17510-17512	Leasing for production of gas; resolution requiring unanimous vote
Ed. Code 17546	Private sale of personal property
Ed. Code 17556-17561	Dedication of real property
Ed. Code 35140-35149	Meetings
<u>Ed. Code 35150</u>	<u>Prohibition to terminate superintendent or assistant superintendent at specified meetings or times</u>
Ed. Code 35160-35178.4	Powers and duties
Ed. Code 48660-48661	Community day schools; establishment and restrictions
Gov. Code 53090-53097.5	Regulation of local agencies by counties and cities
Gov. Code 53724	Parcel tax resolution requirements
Gov. Code 53790-53792	Exceeding the budget
Gov. Code 53820-53833	Temporary borrowing
Gov. Code 53850-53858	Temporary borrowing
<u>Gov. Code 54230.5</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
<u>Gov. Code 54230.7</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.6	Action taken; definition
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54960-54960.5	Actions to prevent violations
Gov. Code 65352.2	Communicating and coordinating of school sites
Pub. Cont. Code 20110-20118.44	School district contracts
Pub. Cont. Code 20113	Emergencies; award of contracts without bids
Pub. Cont. Code 20114	Repairs, maintenance, and improvements to district facilities by day labor or force account
Pub. Cont. Code 22034	Uniform Public Construction Cost Accounting Act informal bidding ordinance
Pub. Cont. Code 22035	Repair or replacement of facilities in case of emergency
Pub. Cont. Code 22050	Emergency contracting procedures
Pub. Cont. Code 3400	Bid specifications
<b>Management Resources</b>	<b>Description</b>
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

Court Decision	Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Court Decision	Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109
Court Decision	Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
Court Decision	McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
League of California Cities Publication	Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	California Office of the Attorney General
Website	CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
3260	Fees And Charges
3260	Fees And Charges
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3471	Parcel Taxes
6185	Community Day School
6185	Community Day School
7131	Relations With Local Agencies
7150	Site Selection And Development

7150	Site Selection And Development
7160	Charter School Facilities
7160	Charter School Facilities
7213	School Facilities Improvement Districts
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9005	Governance Standards
9012	Board Member Electronic Communications
9150	Student Board Members
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9324	Minutes And Recordings

**Exhibit 9323.2-E(2): Actions By The Board**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2012 | **Last Revised Date:** 03/01/2019 | **Last Reviewed Date:** 03/01/2019

**UNCONDITIONAL COMMITMENT LETTER**

CSBA NOTE: Government Code 54960 authorizes the district attorney or other interested person to file an action in court to determine the applicability of the Ralph M. Brown Act to any past Governing Board action which is not specified in Government Code 54960.1; see the accompanying board bylaw. Pursuant to Government Code 54960.2, prior to commencing such an action the district attorney or other interested person must send a cease and desist letter to the Board within nine months of the alleged violation. Within 30 days of receiving the cease and desist letter, the Board may respond by sending an unconditional commitment, substantially in the same form provided in Government Code 54960.2, to desist from repeating the past action. If the Board so responds, the district attorney or other interested person may not file an action in court. The following exhibit presents a sample unconditional commitment letter.

To: (Name of district attorney or any interested person)

The Governing Board of (name of school district) has received your cease and desist letter dated (date) alleging that the following past action taken by the Board violates the Ralph M. Brown Act: (Describe alleged past action as set forth in the cease and desist letter.)

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

(Name)

(Title of Board President or other designee)



# Cuyama Joint Unified School District

2300 Highway 166, New Cuyama, California 93254  
(661) 766-2482 • FAX: (661) 766-2255

March 14, 2024

Personnel Activity Report approved 3/14/2024

## Hires:

### Classified:

### Name

### Schedule

- |  |                |                     |
|--|----------------|---------------------|
| 1. CVHS & ASES Aide  | Teresa Arrieta | Classified Schedule |
| 2-hours a day – Temporary through June 7, 2024<br>Effective March 15, 2024 |                |                     |

### Classified Resignations:

- |   |                 |
|---|-----------------|
| 1. Instruction Aide-<br>Library Media 6.5 hours<br>a day. | Kimberly Rivera |
|---|-----------------|

Effective end of workday of March 22, 2024.

## Athletic Coaches

### Athletic Sport:

### Name

### Schedule

- |                                |              |                          |
|--------------------------------|--------------|--------------------------|
| Girls Varsity Volleyball Coach | Grace Griego | Volunteer (as available) |
|--------------------------------|--------------|--------------------------|

### Certificated:

- |  |             |                       |
|--|-------------|-----------------------|
| Unit Advancement by academic credit  | Carlos Diaz | Certificated Schedule |
| Prep Period of instruction compensation<br>Based on current instructional schedule | Carlos Diaz | Certificated Schedule |

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