

CSBA Policy Management Console
Board Policy Manual

Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

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CSBA NOTE: 5 CCR 4621 mandates that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 mandates districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8235.5 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination, harassment, intimidation, or bullying. For example, all districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

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

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

Compliance Officers

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

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

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(title or position)

(unit or office)

(address)

(telephone number)

(email)

CSBA NOTE: The following paragraph is for use by districts that have designated more than one compliance officer. The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

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

CSBA NOTE: 5 CCR 4621 mandates that the district's policy require employees responsible for compliance and/or for investigating and resolving complaints to be knowledgeable about the laws and programs at issue in the complaints they are assigned. OCR requires that the compliance officer(s) involved in implementing discrimination complaint procedures be knowledgeable about the procedures and be able to explain them to parents/guardians and students. Compliance officers must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

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

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

Notifications

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

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

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

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

A sample of the annual notice is available through CDE's web site. It is the district's responsibility to update the notice as necessary to reflect new law.

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying

that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate

3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

CSBA NOTE: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, districts are required to post information related to Title IX on their web sites, including specified information about complaint procedures under Title IX. See AR 5145.3 - Nondiscrimination/Harassment. A district that does not maintain a web site may comply by posting the information on the web site of its county office of education. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8. In addition, in its April 2015 Dear Colleague Letter: Title IX Coordinators, OCR recommends that districts use web posting and social media to disseminate their nondiscrimination notices, policies, and procedures and communicate current compliance officer(s)' contact information to students, parents/guardians, and employees.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2002 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on the balancing of four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with

which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

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

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

Filing of Complaints

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

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

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

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

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4630)

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

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

CSBA NOTE: Pursuant to 5 CCR 4630, complaints related to the LCAP must be filed within a year of the date that the reviewing authority approves the district's LCAP. Pursuant to Education Code 52070, the County Superintendent of Schools is the reviewing authority for district LCAPs.

3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later

than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

CSBA NOTE: OCR's Revised Sexual Harassment Guidance indicates that if a complainant in a sexual harassment case requests that the complainant's name or that of the victim not be revealed to the alleged perpetrator or asks that the complaint not be pursued, the district should first inform the complainant that honoring the request may limit its ability to respond and pursue disciplinary action against the alleged perpetrator. The OCR publication acknowledges that situations may exist in which a district cannot honor a student's request for confidentiality, but cautions that, in all instances, the district must still continue to ensure that it provides a safe and nondiscriminatory environment for all students. Districts should consult legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault. These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.

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

Mediation

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

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

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

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

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

Investigation of Complaint

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

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

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the

compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

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

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

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

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

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation.

Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

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

Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, OCR has recommended that the same rights be extended to a respondent to a complaint alleging unlawful discrimination to ensure the process is equitable for all involved. Furthermore, OCR recommends notifying the respondent in such a complaint whenever the complainant approves an extension of the timeline. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice.

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

OPTION 1:

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

For any complaint alleging unlawful discrimination, harassment, intimidation, and bullying, the respondent shall be

informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the investigation report at the same time it is provided to the complainant.

OPTION 2:

CSBA NOTE: The remainder of this section is for use by districts that select Option 2.

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

END OF OPTION 2

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, and bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the district's investigation report, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Investigation Report

CSBA NOTE: 5 CCR 4631 specifies components that are required to be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

CSBA NOTE: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), now the Student Privacy Protection Office, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the respondent when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain

information on how the district disciplined the respondent (e.g., an order that the respondent stay away from the alleged victim), FPCO interprets FERPA as allowing the district to disclose that information.

Given the potential liability from improperly disclosing such information, districts are advised to consult with legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the respondent.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see the section "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If the complaint involves a limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

CSBA NOTE: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.

For complaints alleging unlawful discrimination, harassment, intimidation, and bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

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

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support

3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

CSBA NOTE: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with the LCAP requirements pursuant to Education Code 52075, required instructional minutes for physical education pursuant to Education Code 51222 and 51223, and course periods without educational content pursuant to Education Code 51228.3. Districts that do not maintain elementary schools should delete the reference to physical education below.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR

4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

CSBA NOTE: 5 CCR 4633 requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

CSBA NOTE: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Within 30 days of the appeal decision, either party may request reconsideration by the Superintendent of Public Instruction or designee.

Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report; (2) the complainant requires anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named; or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a

complaint would be futile.

Health and Safety Complaints in License-Exempt Preschool Programs

CSBA NOTE: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8235.5 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8235.5, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694.

See the accompanying exhibits for a sample classroom notice and complaint form.

Any complaint regarding health or safety issues in a license-exempt CSPP program shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE web site. (Education Code 8235.5; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8235.5; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution.

The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8235.5; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8235.5; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8235.5; 5 CCR 4692)

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If a complaint regarding health or safety issues in a license-exempt CSPP program involves a limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8235.5; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools. (5 CCR 4693)

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

State References

Description

2 CCR 11023	Harassment and discrimination prevention and correction - https://simbli.eboardsolutions.com/SU/haAgKnrQhVJbsh34hY5zslsh5Q==
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
Ed. Code 200-262.4	Educational equity; prohibition of discrimination on the basis of sex - https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAbNL6kKkgxQ==
Ed. Code 18100-18203	School libraries
Ed. Code 32221.5	Insurance for athletic team members
Ed. Code 32280-32289	School safety plans
Ed. Code 35186	Complaints concerning deficiencies in instructional materials and facilities
Ed. Code 46015	Accommodations for pregnant and parenting students; parental leave
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices in language other than English
Ed. Code 49010-49014	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Flexibility in enrollment of children of military families
Ed. Code 51210	Areas of study
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education, elementary schools
Ed. Code 51225.1-51225.2	Exemption from local graduation requirements; acceptance of coursework
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52616.24	Adult schools

Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant children
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 64000-64001	Consolidated application
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8498	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Discrimination - https://simbli.eboardsolutions.com/SU/PcUFWemcCJnzBrKAL0EtfQ==
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes, harassment

Federal References

20 USC 1221
 20 USC 1232g
 20 USC 1681-1688
 20 USC 6301-6576
 20 USC 6801-7014
 28 CFR 35.107
 29 USC 794
 34 CFR 100.3
 34 CFR 104.7
 34 CFR 106.1-106.82
 34 CFR 106.8
 34 CFR 106.9
 34 CFR 110.25
 34 CFR 99.1-99.67
 42 USC 11431-11435
 42 USC 12101-12213
 42 USC 2000d-2000e-17
 42 USC 2000h-2-2000h-6
 42 USC 6101-6107

Description

Application of laws
 Family Educational Rights and Privacy Act (FERPA) of 1974
 Discrimination based on sex or blindness, Title IX
 Title I Improving the Academic Achievement of the Disadvantaged
 Limited English proficient and immigrant students
 Nondiscrimination on basis of disability; complaints
 Rehabilitation Act of 1973, Section 504
 Discrimination prohibited
 Designation of responsible employee for Section 504
 Nondiscrimination on the basis of sex in education programs
 Designation of responsible employee and adoption of grievance procedures
 Dissemination of policy
 Notification of nondiscrimination on the basis of age
 Family Educational Rights and Privacy
 McKinney-Vento Homeless Assistance Act
 Americans with Disabilities Act
 Title VI and Title VII Civil Rights Act of 1964, as amended
 Title IX of the Civil Rights Act of 1964
 Age Discrimination Act of 1975

Management Resources References

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

Description

A Blueprint for Environmental Literacy: Educating Every Student In, About, and For the Environment, 2015
 01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

U.S. DOJ Publication Accessibility of State and Local Government Websites to People with Disabilities, June 2003

Website AASA The School Superintendents Association - <https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

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0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/ZCslshsQyeUQjtU04zFuUjn0A==
0420	School Plans/Site Councils - https://simbli.eboardsolutions.com/SU/y2etzW7EMUINAHBiplusg41ug==
0420	School Plans/Site Councils - https://simbli.eboardsolutions.com/SU/hplus8WSuNclQslshslshgkyiBLHm9w==
0420.41	Charter School Oversight - https://simbli.eboardsolutions.com/SU/d5CF9FNsppX6bdZjuCDj1A==
0420.41-E(1)	Charter School Oversight - https://simbli.eboardsolutions.com/SU/UHlexeE5Meci8G5XMTyIRA==
0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/b7VMn1nUCslshJpNuhqAe0uQ==
0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/9MdrNtqrsOOaaS3DH55QplusA==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAgoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/slshjUFZbVef5BBjip1DcYhXQ==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/AbJplus59EQ3nHIDGZrxoDK9A==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==
1100	Communication With The Public - https://simbli.eboardsolutions.com/SU/ley0slshLn6E60EPYPDgDNfbg==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tiiKB5AfMDYpqjv8WpbwvQ==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZL3zWrYvEslsh4PsQy14ixGyQ==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/D5Dart6jFHpXwz74KE8YwQ==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/cz0aVHg7kTPOGF9XdA1b0A==
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1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/tOYzmOX63L8SKO0xZc0Raw==
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1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/slshWYiipXCplusF4dplusvZwaUo1w==
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1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/vFSYkwkgcS1ilGJSCD3hRg==
1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/zXly7QFWctIUOsslsh7FyUslshgA==
1312.2-E(1)	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/OM9I7ficy22DLoPZhXSK0g==
1312.4	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/FdgsWb9vmnPYzslpxuoVTQ==
1312.4-E(1)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/xDc2FeqVkmP98muHYGXwHA==
1312.4-E(2)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/9YjmJigOM94K3rnc28Ghplusg==
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3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/wlFsmkJWz6qUWm1aLcnsIshGQ==
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3580	District Records - https://simbli.eboardsolutions.com/SU/tlZyOh2U34W75RhfVAplustcQ==
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4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/qdm254mr6VCWBMMys80kww==
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4112.23	Special Education Staff - https://simbli.eboardsolutions.com/SU/n9dD3PnbLu3slshA9CYLRFTyw==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/I88wrhDpxLg5jDBfvR62BA==
4112.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/m6xBbweAasIshVdzzK1UT33kA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
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4119.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/ELZWUkbDoG27Tslsh1plustNmsRA==
4119.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/slshSlwELBe3gDQv9rgKplus0fhA==
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4119.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/5X9VtPBbvUX8HKgemc87FQ==
4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==

4212.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSpluIzshunh0A==>

4218 Dismissal/Suspension/Disciplinary Action -
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4231 Staff Development -
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4331 Staff Development -
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4344 Complaints -
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5116.1 Intradistrict Open Enrollment -
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5117 Interdistrict Attendance -
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5125 Student Records -
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5131.62	Tobacco - https://simbli.eboardsolutions.com/SU/plus50JsflZqtp5wFk71IBFg==
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5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/aCpslshOJw43mEnLBZ0skuplsgw==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/BEjqlcViXgTslshxLOWlj31IA==
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5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==
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5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==
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5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskplusvKvNplustQ==
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5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/2tcsslshBLCbdkBIN3vG0aUDg==
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5145.71	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/wl898XpIR93KhhCMN8NJbg==
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/opxHkL98CBLAvVyJh3E2Q==
5146	Married/Pregnant/Parenting Students - https://simbli.eboardsolutions.com/SU/29e4XDmsfryez3XZShYGqw==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/alOvcHCaCHbHgfxgZRC88w==
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5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/szAfk3ZplusxgTQu5MplusJ268plusA==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ohyFzdT21Dqc6nxHmZJ06Q==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/rrHn7OSg5E8WpplusiNPuucDQ==
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6142.1	Sexual Health And HIV/AIDS Prevention Instruction - https://simbli.eboardsolutions.com/SU/dwiDi3Jue3w9sw1uhl3g2g==

- 6142.1 Sexual Health And HIV/AIDS Prevention Instruction -
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- 6142.7 Physical Education And Activity -
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- 6145 Extracurricular And Cocurricular Activities -
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- 6145.2 Athletic Competition -
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- 6146.1 High School Graduation Requirements -
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- 6152 Class Assignment -
<https://simbli.eboardsolutions.com/SU/tw2RE7OlekXPx8lcslshJRKLA==>
- 6159 Individualized Education Program -
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- 6159.1 Procedural Safeguards And Complaints For Special Education -
<https://simbli.eboardsolutions.com/SU/08XnEX7SjmqatuGNICplusQOQ==>
- 6159.1 Procedural Safeguards And Complaints For Special Education -
<https://simbli.eboardsolutions.com/SU/aphZMvRisshRJRgagHvPslsh9QA==>
- 6159.2 Nonpublic, Nonsectarian School And Agency Services For Special Education -
<https://simbli.eboardsolutions.com/SU/YWurxKKOPF4mJYPYFWBxA==>
- 6159.2 Nonpublic, Nonsectarian School And Agency Services For Special Education -
<https://simbli.eboardsolutions.com/SU/gurAb4oYXtBrtMxugGdsdA==>
- 6159.3 Appointment Of Surrogate Parent For Special Education Students -
<https://simbli.eboardsolutions.com/SU/n5SusGlcCTMXi460EvyTqA==>
- 6159.3 Appointment Of Surrogate Parent For Special Education Students -
<https://simbli.eboardsolutions.com/SU/9HIZJlhXpMikrfihdkflew==>
- 6164.4 Identification And Evaluation Of Individuals For Special Education -
<https://simbli.eboardsolutions.com/SU/u3Bz16BHYplusYhho3ltoNqwQ==>
- 6164.4 Identification And Evaluation Of Individuals For Special Education -
<https://simbli.eboardsolutions.com/SU/XT1K4QF9WJDPTohcgjosfg==>
- 6171 Title I Programs -
<https://simbli.eboardsolutions.com/SU/qbLslshD7F4OwB1umQEup51vA==>
- 6171 Title I Programs -
<https://simbli.eboardsolutions.com/SU/ttAZM0AslshK0eeqmSKUanG4A==>
- 6173 Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/o1HJzQlfWhwyEgJiewvKJA==>
- 6173 Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/z6OnwG68JmS58A2LhOslshGNQ==>
- 6173-E(1) Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/eJoZD7cageZLQxmOYWpVrQ==>

6173-E(2) Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/Z5jemm0G8094U9SYFvJ9rA==>

6173.1 Education For Foster Youth -
<https://simbli.eboardsolutions.com/SU/VleH0lrILDplus84ggVABfelQ==>

6173.1 Education For Foster Youth -
<https://simbli.eboardsolutions.com/SU/wQVO1mjCLaL244q2tiQplusXg==>

6173.2 Education Of Children Of Military Families -
<https://simbli.eboardsolutions.com/SU/CUexaHcW9m9YAj4fZ2CzQ==>

6173.2 Education Of Children Of Military Families -
<https://simbli.eboardsolutions.com/SU/aK0lbSVtNSXBvKE1iqsJvw==>

6173.3 Education For Juvenile Court School Students -
<https://simbli.eboardsolutions.com/SU/MoZ36tP6eiXaEaHqczKQwg==>

6175 Migrant Education Program -
<https://simbli.eboardsolutions.com/SU/R5H4XbPx1IKJqHfFHZplusUslshg==>

6175 Migrant Education Program -
<https://simbli.eboardsolutions.com/SU/AJvKhVplusAEirRLPOjslshSsFhg==>

6178 Career Technical Education -
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6178 Career Technical Education -
<https://simbli.eboardsolutions.com/SU/vL3wj9CVkzu5JqEnnulplusRA==>

6178.1 Workased Learning -
<https://simbli.eboardsolutions.com/SU/TO4McaBGHGyk7TE2lzK6QA==>

6178.1 Workased Learning -
<https://simbli.eboardsolutions.com/SU/82ws3rnQLJx2M6hwY7ARoQ==>

6178.2 Regional Occupational Center/Program -
<https://simbli.eboardsolutions.com/SU/E9jqc9hrffA4fc4MYkSjCw==>

6200 Adult Education -
<https://simbli.eboardsolutions.com/SU/slshnqIYgw8QsZlIBfFHplus3vAA==>

6200 Adult Education -
<https://simbli.eboardsolutions.com/SU/slsh1eeQUplus7MadRMOBNSD41mA==>

9000 Role Of The Board -
<https://simbli.eboardsolutions.com/SU/QFqplus0PXxgCAfOhwNmH9Y3w==>

9011 Disclosure Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/mdJZfdOa7slshslshGplusMK976f8dQ==>

9012 Board Member Electronic Communications -
<https://simbli.eboardsolutions.com/SU/WQpdpVS5V1Zmi1HGsdHH9g==>

9124 Attorney -
<https://simbli.eboardsolutions.com/SU/A1F5VTVKEBAWBGILdknbiA==>

9200 Limits Of Board Member Authority -
<https://simbli.eboardsolutions.com/SU/ml87hDSxWzo3BplusvbMzVOFQ==>

9321-E(1) Closed Session -
<https://simbli.eboardsolutions.com/SU/gDb14mPzLvPdRfYdzRfLbA==>

9321-E(2) Closed Session -
<https://simbli.eboardsolutions.com/SU/OfLLA8RnW7O9S5mslshplusOztpQ==>

9321 Closed Session -
<https://simbli.eboardsolutions.com/SU/MFD8gQ28ECms7s6Sceapmg==>

9322 Agenda/Meeting Materials -
<https://simbli.eboardsolutions.com/SU/IFGDWqLCgBxjOchiZhozuw==>

Policy 1313: Civility

Status: ADOPTED

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

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

The Governing Board recognizes the impact that civility has on the effective operation of the district, including its role in creating a safe and positive school climate and enabling a focus on student well-being, learning, and achievement. The Board believes that each person should be treated with dignity and respect in their interactions within the school community.

CSBA NOTE: The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution provide strong protection as to speech related to district business.

In addition, pursuant to Government Code 54954.3 and the court's decision in *Baca v. Moreno Valley Unified School District*, the Governing Board must not prohibit public criticism of district policies, procedures, programs, services, acts, omissions, or employees, even if the speech is clearly defamatory. See BB 9323 - Meeting Conduct. Pursuant to Government Code 54957.9 and the court's decisions in *Norse v. City of Santa Cruz* and *City of San Jose v. Garbett*, the Board is authorized to remove persons who willfully disrupt or disturb a meeting, provided that the action actually interferes with the proceedings of the meeting or poses a credible threat of violence that would place reasonable persons in fear for their safety or the safety of others.

Compared to community members, districts have greater authority to regulate the speech of district employees when they are acting in the scope of their employment with the district. Furthermore, court decisions have found that the First Amendment rights of public school students in the school setting are not necessarily the same as the rights of adults in other settings and must be applied in light of the special circumstances of the school environment. In *Hazelwood School District v. Kuhlmeier*, the U.S. Supreme Court ruled that when a school has not, by policy or practice, opened up a school-sponsored activity for unrestricted use by students, the school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." See BP/AR 5145.2 - Freedom of Speech/Expression.

Districts should consult legal counsel before placing restrictions on employee, student, or community member speech/expression in an effort to maintain civility.

The Board understands that the First Amendment provides strong protection for speech. However, the Board expects that all speech and expression will comport with norms of civil behavior on district grounds, in district facilities, during district activities or events, and in the use of district electronic/digital systems and platforms.

CSBA NOTE: The following optional paragraph reflects traits included in the definition of civil behavior provided by the National Council for the Social Studies Connected.

Civil behavior is polite, courteous, and reasonable behavior which is respectful to others and includes integrity, honesty, acceptance, timeliness, dependability, observance of laws and rules, and effective communication.

The Board and district staff shall model civil behavior as an example of behavior that is expected throughout the district. Practices that promote civil behavior include actively listening, giving full attention to the speaker, and refraining from interruptions; welcoming and encouraging participation, input, and feedback through stakeholder engagement; promptly responding to concerns; and embracing varying and diverse viewpoints. Such practices may be incorporated into governance standards adopted by the Board or Superintendent and/or professional standards or codes of conduct for employees as specified in district policies and regulations.

Students, staff, parents/guardians, and community members should be educated in the recognition, development, and demonstration of civil behavior. The Superintendent or designee may incorporate related concepts in the curriculum, provide staff development activities, and/or communicate this policy to the school community.

Students, staff, parents/guardians, and community members shall not communicate or behave in a manner that causes disruption; hinders the orderly conduct of district operations, the educational program, or any other district program or activity; or creates an unsafe learning or working environment. The Superintendent or designee may respond to disruptive, violent, or threatening behavior in accordance with law and as specified in BP/AR 3515.2 - Disruptions.

Behavior by students or staff that is discriminatory, harassing, or intimidating, including sexual harassment, bullying, and/or hate violence, or behavior that is in any other way unlawful, is prohibited and is subject to discipline in

accordance with law and as specified in district policy and regulations.

Policy 3511.1: Integrated Waste Management

Status: ADOPTED

Original Adopted Date: 11/01/2001 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: The following policy may be revised to reflect district practice. Pursuant to Public Resources Code 42630, districts and schools are encouraged to assist cities and counties in meeting the solid waste diversion goals set by Public Resources Code 41780. Pursuant to Public Resources Code 42649.2 and 42649.81, businesses, including schools, are required to arrange for recycling services if the amount of solid or organic waste they produce meets the thresholds specified in law and the accompanying administrative regulation. The California Department of Resources Recycling and Recovery (CalRecycle) offers resources identifying waste management strategies, available funding sources, and education and school waste reduction programs that provide curriculum to link instruction on integrated waste management and environmental concepts with student action projects at school sites.

The Governing Board believes that the conservation of water, energy, and other natural resources, the protection of the environment, and the implementation of an effective waste diversion program are connected to the district's educational mission and are essential to the health and well-being of the community. The Superintendent or designee shall develop and implement a cost-effective, integrated waste management program that incorporates the principles of green school operations.

The district's integrated waste management program shall include strategies designed to promote waste management practices of source reduction, recycling, and composting to help the district reduce and recycle solid and organic waste, properly dispose of potentially hazardous materials, improve efficiency in the use of natural resources, and minimize the impact of such use on the environment. The program shall address all areas of the district's operations, including, but not limited to, procurement, resource utilization, and facilities management practices.

The Superintendent or designee may collaborate with city, county, and state agencies and other public or private agencies in developing and implementing the district's integrated waste management program.

CSBA NOTE: CalRecycle provides grants and related information to eligible schools for developing and implementing integrated waste management programs. For more information, see CalRecycle's web site.

The Superintendent or designee shall make every effort to identify funding opportunities for the district's integrated waste management program, including applying for available grants or other cost-reduction incentives.

The Superintendent or designee may provide appropriate educational and training opportunities to students and staff regarding the benefits and methods of conserving natural resources and the manner in which integrated waste management strategies impact such efforts.

The Superintendent or designee shall regularly monitor all aspects of the district's integrated waste management program and shall provide an update to the Board on its effectiveness as necessary.

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 References

Description

14 CCR 17225.12

Commercial solid waste - <https://simbli.eboardsolutions.com/SU/6LplusKEU3vslsh9NfJ1LIAGbbsA==>

Ed. Code 17070.96

Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards - <https://simbli.eboardsolutions.com/SU/vsczR2pwGdptWPStIWcBplusA==>

Ed. Code 17072.35

New construction grants; use for designs and materials for high performance schools - <https://simbli.eboardsolutions.com/SU/zWOFjoqdzYSwxOexycSq8Q==>

Ed. Code 32370-32376

Recycling paper

Ed. Code 33541

Science requirements

Ed. Code 8700-8707

Environmental education

Pub. Res. Code 41780	Waste diversion
Pub. Res. Code 25410-25421	Energy conservation assistance
Pub. Res. Code 40050-40063	Integrated waste management act
Pub. Res. Code 42620-42622	Source reduction and recycling programs
Pub. Res. Code 42630-42647	Schoolsite source reduction and recycling assistance program
Pub. Res. Code 42649-42649.7	Recycling of commercial solid waste

Management Resources References

Website

Description

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QoEQ==>

Cross References

0100

Philosophy -
<https://simbli.eboardsolutions.com/SU/VpIYee4uPZslshQt6llLEumgQ==>

1400

Relations Between Other Governmental Agencies And The Schools -
<https://simbli.eboardsolutions.com/SU/40PU2xBWBWbzZztwJEoAGg==>

3000

Concepts And Roles -
<https://simbli.eboardsolutions.com/SU/r0XRsknMzSplus15pgZ2KD5Vw==>

3270

Sale And Disposal Of Books, Equipment And Supplies -
<https://simbli.eboardsolutions.com/SU/H1H0yYOUmIkxap8dGKg8ug==>

3270

Sale And Disposal Of Books, Equipment And Supplies -
<https://simbli.eboardsolutions.com/SU/FKVaWhrsJDDxvVORplusegPwA==>

3312

Contracts -
<https://simbli.eboardsolutions.com/SU/DqwuwxXCXw9CN62qZKnyg==>

3510

Green School Operations -
<https://simbli.eboardsolutions.com/SU/XgUnplus1ny4xhEqNqzslshy86tw==>

3511

Energy And Water Management -
<https://simbli.eboardsolutions.com/SU/ZncAFkPeOMVplusXQ4ylvnEcg==>

3511

Energy And Water Management -
<https://simbli.eboardsolutions.com/SU/WhhFbJOSLitXLUHS61YKQg==>

3514

Environmental Safety -
<https://simbli.eboardsolutions.com/SU/WTMeVx90CSgAJSMUK4oVVw==>

3514

Environmental Safety -
<https://simbli.eboardsolutions.com/SU/khjltHlrcgU1781WAmplus7vg==>

3514.2

Integrated Pest Management -
<https://simbli.eboardsolutions.com/SU/WJJmhm0Ahtk5325rlhSkuQ==>

3517

Facilities Inspection -
<https://simbli.eboardsolutions.com/SU/ofk92LPsLQxWmkvKVdNctw==>

4131

Staff Development -
<https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==>

4331

Staff Development -
<https://simbli.eboardsolutions.com/SU/2DzaKVVFWggWZZZGWyC2Mg==>

6142.5

Environmental Education -
<https://simbli.eboardsolutions.com/SU/RhB1qHZNWslshP4qHtEgXb8Ug==>

6142.93

Science Instruction -
<https://simbli.eboardsolutions.com/SU/m8C2yxGqLaNoe4QgQCClrQ==>

7110

Facilities Master Plan -
<https://simbli.eboardsolutions.com/SU/87hITSxY1kGTJdMVdJfsOA==>

7131

Relations With Local Agencies -

<https://simbli.eboardsolutions.com/SU/gSigOkghdaSslsh4y0plusplusMrM4w==>

Regulation 3511.1: Integrated Waste Management

Status: ADOPTED

Original Adopted Date: 11/01/2001 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following administrative regulation may be revised to reflect district practice.

For all applicable areas of district operations, the Superintendent or designee shall design an integrated waste management program that minimizes the generation of waste, encourages the recovery and diversion of reusable materials from the waste stream, improves efficiency in the utilization of natural and material resources, and protects the environment. The program shall implement measures and/or practices to:

1. Reduce the consumption of disposable materials, increase the composting of organic materials, and fully utilize all materials prior to disposal
2. Recycle materials such as paper, glass, plastic, and aluminum
3. Prefer recycled, biodegradable, and other environmentally preferable products when procuring materials for use in district schools and buildings or contracting for the construction or modernization of any district building
4. Work with city, county, or other government agencies to locate markets for the district's reusable and recyclable materials
5. Minimize the use of nonbiodegradable materials and work with vendors and contractors to use packaging and delivery materials that generate less waste

Recycling

CSBA NOTE: Pursuant to Public Resources Code 42649.2, any business or public entity, including a school or other district facility, which generates four or more cubic yards of commercial solid waste per week (approximately the size of a 72-inch length, 51-inch width, and 56-inch rear height dumpster) is required to arrange for recycling services in accordance with law, to the extent that such services are available from a local provider. Commercial solid waste, as defined in Public Resources Code 42649.1, means any type of solid waste generated by stores, offices, or other commercial or public entity source.

Any school site or district facility which generates four or more cubic yards of solid waste per week shall take at least one of the following actions: (Public Resources Code 42649.1, 42649.2)

1. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials
2. Subscribe to a recycling service which may include mixed waste processing that yields diversion results comparable to source separation

CSBA NOTE: In September 2020, the California Department of Resources Recycling and Recovery (CalRecycle) determined, pursuant to Public Resources Code 42649.81, that the statewide disposal of organic waste has not been reduced to 50 percent of the 2014 level of disposal. Thus, any school facility that generates two or more cubic yards per week of solid waste is required to meet requirements pertaining to the recycling of organic waste as described below. CalRecycle's Frequently Asked Questions clarify that, for this purpose, the threshold applies to solid waste, recyclables, and organics.

CalRecycle also extended the exemption in Public Resources Code 42649.81 and 42649.83 for rural jurisdictions that adopt a resolution as specified. Districts in rural jurisdiction that have adopted such a resolution may delete the following paragraph.

Any school site or district facility which generates two or more cubic yards per week of solid waste, recyclables, and organics shall arrange for recycling services specifically for organic waste, including food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Such facilities shall take at least one of the following actions: (Public Resources Code 42649.8, 42649.81-42649.82, 42649.84)

1. Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste

2. Recycle organic waste onsite or self-haul organic waste for recycling
3. Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste
4. Make other arrangements to sell or donate recyclable organic waste materials

CSBA NOTE: Public Resources Code 42649.2 and 42649.81 require a school or other district facility that generates at least four cubic yards of solid waste or two cubic yards of organic waste per week to provide recycling bins or containers to collect material purchased on the premises. According to CalRecycle's school poster, Recycling and Organics Recycling Guide for Schools, bins or containers must be placed where material is purchased on the premises for immediate consumption, such as areas where food is consumed.

Any school site or district facility that meets the above thresholds for solid or organic waste shall place a recycling bin or container for solid or organic waste, as applicable, in areas where food or other materials are purchased at the facility for immediate consumption. The recycling bin or container shall be: (Public Resources Code 42649.2, 42649.81)

1. Adjacent to each bin or container for nonrecyclable trash, except in restrooms
2. Visible and easily accessible

CSBA NOTE: Public Resources Code 42649.2 and 42649.81 require that each recycling bin or container be clearly marked with educational signage indicating what is appropriate to place in the bin or container. CalRecycle provides customizable signage for this purpose on its web site, or districts may contact their local government or waste hauler for signage.

3. Clearly marked with educational signage indicating appropriate items to be placed in the recycling bin or container in accordance with state law and the local jurisdiction's waste ordinances and practices

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 References

14 CCR 17225.12

Description

Commercial solid waste - <https://simbli.eboardsolutions.com/SU/6LplusKEU3vslsh9Nfj1LIAGbbsA==>

Ed. Code 17070.96

Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards - <https://simbli.eboardsolutions.com/SU/vsczR2pwGdptWPStlWcBplusA==>

Ed. Code 17072.35

New construction grants; use for designs and materials for high performance schools - <https://simbli.eboardsolutions.com/SU/zWOFjoqdzYSwxOexycSq8Q==>

Ed. Code 32370-32376

Recycling paper

Ed. Code 33541

Science requirements

Ed. Code 8700-8707

Environmental education

Pub. Res. Code 41780

Waste diversion

Pub. Res. Code 25410-25421

Energy conservation assistance

Pub. Res. Code 40050-40063

Integrated waste management act

Pub. Res. Code 42620-42622

Source reduction and recycling programs

Pub. Res. Code 42630-42647

Schoolsite source reduction and recycling assistance program

Pub. Res. Code 42649-42649.7

Recycling of commercial solid waste

Management Resources References

Description

Website AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

Description

0100	Philosophy - https://simbli.eboardsolutions.com/SU/VpIYee4uPZslshQt6llLEumgQ==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBbweZztwJEoAGg==
3000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/r0XRsknMzSplus15pgZ2KD5Vw==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/H1H0yYOUMlkxap8dGKg8ug==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/FKVaWhrsJDDxvVORplusgPwA==
3312	Contracts - https://simbli.eboardsolutions.com/SU/DqwuwXcXw9CN62qZKknyg==
3510	Green School Operations - https://simbli.eboardsolutions.com/SU/XgUnplus1ny4xEqNqzslshy86tw==
3511	Energy And Water Management - https://simbli.eboardsolutions.com/SU/ZncAFkPeOMVplusXQ4yIvnEcg==
3511	Energy And Water Management - https://simbli.eboardsolutions.com/SU/WhhFbJOSLitXLUHS61YKQg==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/WTMeVx90CSgAJSMUK4oVVw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/khJtHlrcgU1781WAmplus7vg==
3514.2	Integrated Pest Management - https://simbli.eboardsolutions.com/SU/WJmhm0Ahtk5325rlhSkuQ==
3517	Facilities Inspection - https://simbli.eboardsolutions.com/SU/oFk92LPsLQxWmkvKVdNctw==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVWFWggWZZZGWyC2Mg==
6142.5	Environmental Education - https://simbli.eboardsolutions.com/SU/RhB1qHZNWslshP4qHtEgXb8Ug==
6142.93	Science Instruction - https://simbli.eboardsolutions.com/SU/m8C2yxGqLaNoe4QgQCClrQ==
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/87hITSxY1kGTJdMVdJfsOA==
7131	Relations With Local Agencies - https://simbli.eboardsolutions.com/SU/gSigOkghdaSslsh4y0plusplusMrM4w==

Policy 3515.31: School Resource Officers

Status: ADOPTED

Original Adopted Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following optional policy is for use by districts that choose to employ school resource officers (SROs) or enter into an agreement with local law enforcement for the purpose of providing SROs on school campuses and/or at school activities. 34 USC 10389 defines an SRO as a law enforcement officer with sworn authority who is assigned by the agency to work in collaboration with schools to (1) address crime and disorder problems, gangs, and drug activities affecting or occurring in or around a school; (2) develop or expand crime prevention efforts for students; (3) educate likely school-age victims in crime prevention and safety; (4) develop or expand community justice initiatives for students; (5) train students in conflict resolution, restorative justice, and crime awareness; (6) assist in the identification of physical changes in the environment that may reduce crime in and around the school; and (7) assist in developing school policy that addresses crime and recommend procedural changes.

Requirements for districts that choose to establish their own police or security department are addressed in BP/AR 3515.3 - District Police/Security Department.

Education Code 38000, as amended by SB 98 (Ch. 24, Statutes of 2020), expresses legislative intent to encourage districts to redirect resources currently allocated to contracts with local law enforcement or the maintenance of district police departments into student support services (e.g., mental health services) and professional development on cultural competency and restorative justice, if found to be a more appropriate use of resources based on student and school needs.

The Governing Board is committed to protecting the safety of students and staff and the security of district property.

The district shall develop a multi-tiered approach focused on the prevention of school violence and crime and the development of a positive school culture, which may include providing mental health services and other student support services, implementing restorative justice practices, implementing professional development addressing cultural competency, and employing and/or contracting with a law enforcement agency to provide school resource officers (SROs) on school campuses and/or school activities.

In order to reduce unnecessary law enforcement interactions with students, the Superintendent or designee shall provide training to school staff regarding the role of SROs and the appropriate circumstances for contacting such officers.

CSBA NOTE: The following paragraphs are for use by districts that contract with local law enforcement for the provision of SROs and may be revised to reflect district practice. If the district decides to contract for SROs, the district should enter into a memorandum of understanding (MOU) that clearly defines roles, responsibilities, and expectations for the district, school site, law enforcement agency, and individual officers. For further information, see the Memorandum of Understanding Fact Sheet issued by the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS). In addition, sample MOUs are available on the National Association of School Resource Officers (NASRO) web site.

Agencies that receive grant funding from COPS to deploy SROs to school districts are subject to specified requirements, including, but not limited to, requirements to establish an MOU, ensure that SROs complete a basic training course no later than nine months after being notified of the grant award, and assign SROs to work in and around schools for at least 75 percent of the calendar year or 100 percent of the time during the school year, depending on the agreement between the agency and school district. See the COPS web site for information about this grant program.

The Board shall approve a memorandum of understanding (MOU) with the local law enforcement agency which includes, at a minimum:

1. The purpose of the agreement
2. A clear definition of the roles and responsibilities of the district, school site, law enforcement agency, and SROs, including responsibility for supervision of the SRO
3. The extent to which information will be shared between the district and law enforcement agency consistent with state and federal laws
4. Requirements for qualifications and training of SROs

5. Assigned hours of SRO duty in and around schools
6. Performance monitoring

The Board may expand on the above requirements to include more specific terms, such as acknowledgement of nondiscrimination requirements, training focused on eliminating disproportionalities in SRO contacts with students, and staffing of an SRO position when the assigned SRO is on leave.

Duties

SROs are duly sworn peace officers who are authorized to carry out their duties pursuant to state law.

CSBA NOTE: The following paragraph reflects a recommendation of the U.S. Department of Education's Guiding Principles: A Resource Guide for Improving School Climate and Discipline that educators, rather than police or security officers, should handle student discipline issues. Law enforcement agencies that receive grant funding through COPS are required to include a statement in their MOU that SROs will not be responsible for requests to resolve routine student discipline problems; see COPS' Memorandum of Understanding Fact Sheet.

Job duties of the SRO shall not include the handling of student code of conduct violations or routine student disciplinary matters that should be addressed by school administrators, or conduct that would be better addressed by mental health professionals.

CSBA NOTE: Pursuant to Government Code 7286, law enforcement agencies are required to establish policy that provides a minimum standard on the use of force, with specified components. In addition, pursuant to Penal Code 13651, as added by AB 846 (Ch. 322, Statutes of 2020), an agency that employs peace officers is required to review the job description that is used in recruitment and hiring and make changes that emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving while de-emphasizing the paramilitary aspects of the job. Although these requirements are the responsibility of the law enforcement agency, not a district that contracts with a law enforcement agency for SROs, it is important that the district is aware of the expectations regarding use of force.

SROs shall be expected to collaborate with district staff in problem solving and, when circumstances warrant intervention with students, to use positive and restorative approaches in accordance with Penal Code 13651. SROs shall use tactics such as de-escalation techniques to mitigate the use of force in an educational setting and shall strictly adhere to the policy on minimum use of force pursuant to Government Code 7286.

When approved by the Superintendent or designee, an SRO may provide classroom presentations and/or parent/guardian education pertaining to safety issues and may link students, parents/guardians, and staff with resources and services.

Qualifications of Officers

CSBA NOTE: NASRO recommends that the selection, training, and supervision of SROs comport with NASRO's Standards and Best Practices for School Resource Officers and that SROs receive at least 40 hours of specialized training in school policing before beginning their assignment. NASRO offers training on adolescent development, trauma-informed investigations, crisis intervention and de-escalation, threat assessment, and active shooter situations.

In addition, Government Code 7286 requires that the law enforcement agency's use of force policy address training regarding the policy, including (1) training standards and requirements related to demonstrated knowledge and understanding of the agency's use of force policy; (2) training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities; and (3) minimum training and course titles required to meet the objectives in the use of force policy.

Prior to beginning their assignment when possible, SROs shall complete specialized training in school policing, the unique experiences of the diverse populations within the school community, and the law enforcement agency's use of force policy.

Nondiscrimination

SROs shall not discriminate against or treat any person differently on the basis race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy,

parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

The Superintendent or designee shall periodically report to the Board disaggregated data on student interactions with SROs to evaluate the appropriateness of such interactions and ensure compliance with the prohibition against nondiscrimination. Such reports may include the number of arrests and referrals for prosecution, the number of reports provided to the school or district regarding student misconduct, or other actions taken by SROs with respect to individual students or others on campus.

As necessary, the Superintendent or designee shall develop and implement practices to prevent disproportionality of student interactions with SROs based on student characteristics and to minimize the potential for referrals of students into the juvenile justice system.

Access to Records

SROs shall not have access to student records, nor release student information to another person, agency, or organization, without written permission from the parent/guardian or adult student, unless specifically allowed or required by state or federal law. (Education Code 49076; 34 CFR 99.1)

SROs shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and/or federal law. (Education Code 234.7)

Policy 4112.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 02/01/1996 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires individuals employed as drivers of other school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

A driver shall not report for duty or remain on duty when the driver has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver is using the drug under the direction of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.213)

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

CSBA NOTE: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

CSBA NOTE: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following optional paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

CSBA NOTE: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is optional. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

If the substance abuse professional recommends that further and ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

Voluntary Self-Identification

CSBA NOTE: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is mandated to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over the drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that the driver does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until the driver has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

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 References

	Description
13 CCR 1200-1293	Motor carrier safety - https://simbli.eboardsolutions.com/SU/yQSHDNRNIEAnhAVA3MDcgQ==
13 CCR 1212-1228	School bus driver requirements - https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==
Ed. Code 35160	Authority of governing boards
Gov. Code 8355	Certification of drug-free workplace, including notification
Veh. Code 13376	Driver certificates; revocation or suspension
Veh. Code 34500-34520.5	Safety regulations

Federal References

	Description
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.605	Controlled substance and alcohol use and testing
49 CFR 382.205	On-duty use
49 CFR 382.207	Pre-duty use
49 CFR 382.209	Use following an accident
49 CFR 40.1-40.413	Procedures for transportation workplace drug and alcohol testing programs
49 USC 31306	Alcohol and drug testing

Management Resources References

	Description
California Highway Patrol Publication	Controlled Substances and Alcohol Testing Compliance Checklist, 2007
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==

Cross References

	Description
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/TRPSJQQAB6pluslceOnc7Uc4Q==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshy6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
3540	Transportation - https://simbli.eboardsolutions.com/SU/NplusVzfbE4guWaAslsh5kxQxQ==
3542	School Bus Drivers - https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODEgIH55kMGUQ==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/UMXHY6GhgW5K0JKPazWzA==
3580	District Records - https://simbli.eboardsolutions.com/SU/tjZyOh2U34W75RhfvAplustcQ==

3580 District Records -
<https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==>

4020 Drug And Alcohol-Free Workplace -
<https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslshhDdpwA==>

4112.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR62BA==>

4112.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/m6xBbweAaslhVdzzK1UT33kA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotllyCi8dgd3XGslsh0g==>

4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/OIBOQFiL0yplusxMGjgWUBPgQ==>

4159 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPAlBiPRmq7OQA==>

4161.1 Personal Illness/Injury Leave -
<https://simbli.eboardsolutions.com/SU/vGPYOsIshplus5oP4oqZUubPe6bQ==>

4161.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4161.9 Catastrophic Leave Program -
<https://simbli.eboardsolutions.com/SU/slshDuDv2feWQAEpz023plusfRplusw==>

4161.9 Catastrophic Leave Program -
<https://simbli.eboardsolutions.com/SU/PHI9sBLcJIntN00OfDssPg==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAl5R65sg==>

4212.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==>

4212.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSpluslZshunh0A==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==>

4219.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==>

4259 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==>

4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tslshtXI7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFIBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWToZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1IBmhT1lpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJZjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUhWiNDsPTudg==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/k38J1bQYp5p2kv5Y1AbtVg==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXErewnmhn4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydncOQ==

Regulation 4112.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 08/01/2013 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following administrative regulation reflects state and federal requirements (Vehicle Code 34520; 49 CFR 40.1-40.413, 382.101-382.605) for drug and alcohol testing of school bus drivers, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Pursuant to 49 CFR 40.27, the district must not require a driver to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.

Definitions

CSBA NOTE: Regardless of state medical or recreational marijuana laws, marijuana remains an illegal drug under the Controlled Substances Act and use of it by a driver remains a violation of federal drug testing regulations.

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. (49 CFR 40.3, 382.107)

Safety-sensitive function means all time from the time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus or other school transportation vehicle; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the vehicle or vehicle equipment; loading or unloading the vehicle; supervising or assisting in the loading or unloading of the vehicle; and repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (49 CFR 382.107)

Designated Employer Representative

CSBA NOTE: 49 CFR 40.35 and 40.215 require the district to identify a "designated employer representative" to perform the duties specified in 49 CFR 40.3. The following paragraph may be revised to reflect the title of the employee so designated.

The Superintendent or designee shall identify a designated employer representative who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

Pre-employment Testing

CSBA NOTE: Pursuant to 49 CFR 382.701, districts are required to conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse's online database, available on its web site, to obtain information about an applicant. Pursuant to 49 CFR 40.25 and 382.413, districts must also, until January 6, 2023, continue to request a driver's drug and alcohol testing record from any employer who has employed the driver during the previous three years.

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and 382.413, from any employer who has employed the driver at any time during the previous three years. To the extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions. In addition, the Superintendent or designee shall ask the driver if there was a positive test, or a refusal to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that was not obtained. (49 CFR 40.25, 382.413)

The driver shall not be permitted to perform safety-sensitive functions if the driver refuses to provide consent to obtain the information from previous employers or from the Clearinghouse; the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district; or the driver, the Clearinghouse, or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413, 382.701, 382.703)

A driver whom the district intends to hire or use shall undergo testing for drugs and receive a verified negative test result prior to the first time the driver performs safety-sensitive functions for the district. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months from the date of application or participated in a random drug testing program for the previous 12 months from the date of application.
3. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

The Superintendent or designee shall contact the testing program(s) in which the driver has participated and obtain information about the program and the driver's participation as specified in 49 CFR 382.301.

CSBA NOTE: The following optional paragraph is for use by districts that choose to conduct pre-employment alcohol testing; see the accompanying Board policy. Pursuant to 49 CFR 382.301, pre-employment alcohol testing is not required but, if the district chooses to conduct such testing, it must comply with the following requirements.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving traffic violation within eight hours of the accident and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

Random Testing

CSBA NOTE: The district may revise the following paragraph to specify the method by which it will select drivers for random drug and alcohol testing. Pursuant to 49 CFR 382.305, the district must randomly select drivers for testing using a scientifically valid method such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Pursuant to 49 CFR 40.347, the district may contract with a third-party administrator or join a consortium of employers to operate the random selection process.

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

Such tests shall be unannounced and conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

CSBA NOTE: Pursuant to 49 CFR 382.305, the district must annually test at least 10 percent of district drivers for alcohol and at least 25 percent for drugs. However, the minimum required percentage is subject to change as determined necessary by the Federal Motor Carrier Safety Administration (FMCSA). Any such change will be

published in the Federal Register and on the FMCSA's web site and will be effective starting January 1 following such publication.

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

CSBA NOTE: The following section may be revised to reflect the position (e.g., driver's supervisor or other district employee) authorized and trained to make observations for reasonable suspicion drug or alcohol testing.

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after the driver completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

CSBA NOTE: Pursuant to 49 CFR 40.307, after a driver successfully complies with education and treatment services, the substance abuse professional will prescribe a follow-up testing plan and will present that plan to the designated employer representative. The plan must direct that the driver be subject to at least six unannounced follow-up tests in the first 12 months following the driver's return to safety-sensitive functions.

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those

included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

Notifications

CSBA NOTE: Pursuant to 49 CFR 382.601, the district is mandated to adopt policy and procedures pertaining to misuse of drugs and alcohol and to provide these materials to each driver. When conducting compliance inspections, the California Highway Patrol reviews whether district policy or regulations contain all of items #1-12 below.

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.113, 382.303, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee

assistance program, and/or referral to management

12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse

Each driver shall sign a statement certifying receipt of a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Records

CSBA NOTE: 49 CFR 40. 333 and 382.401 specify the records that must be retained by the district and how long each record must be retained (i.e., one year, two years, three years, five years, or indefinitely). Upon receiving a request from the FMCSA to inspect any such record, the district must make the record(s) available for inspection at the district office within two business days.

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

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 References

13 CCR 1200-1293

13 CCR 1212-1228

Ed. Code 35160

Gov. Code 8355

Veh. Code 13376

Veh. Code 34500-34520.5

Description

Motor carrier safety -

<https://simbli.eboardsolutions.com/SU/yQSHDNRNieMnhAVA3MDcgQ==>

School bus driver requirements -

<https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==>

Authority of governing boards

Certification of drug-free workplace, including notification

Driver certificates; revocation or suspension

Safety regulations

Federal References

21 CFR 1308.11-1308.15

41 USC 8101-8106

49 CFR 382.101-382.605

49 CFR 382.205

49 CFR 382.207

49 CFR 382.209

49 CFR 40.1-40.413

49 USC 31306

Description

Controlled substances

Drug-Free Workplace Act

Controlled substance and alcohol use and testing

On-duty use

Pre-duty use

Use following an accident

Procedures for transportation workplace drug and alcohol testing programs

Alcohol and drug testing

Management Resources References

California Highway Patrol Publication

Website

Description

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

AASA The School Superintendents Association -

<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==>

Cross References

Description

3513.4 Drug And Alcohol Free Schools - <https://simbli.eboardsolutions.com/SU/TRPSJQQAB6plusceOnc7Uc4Q==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>

3540 Transportation - <https://simbli.eboardsolutions.com/SU/NplusVzfbse4guWaAslsh5kxQxQ==>

3542 School Bus Drivers - <https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODFglH55kMGUQ==>

3543 Transportation Safety And Emergencies - <https://simbli.eboardsolutions.com/SU/UMXHY6GhgW5K0JKPazWzA==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/tjZyOh2U34W75RhFVAplustcQ==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==>

4020 Drug And Alcohol-Free Workplace - <https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslshhDdpwA==>

4112.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR62BA==>

4112.9-E(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/m6xBbweAaslshVdzK1UT33kA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==>

4119.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards - <https://simbli.eboardsolutions.com/SU/OIBOQFiL0yplusxMGjgWUBPgQ==>

4159 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPAlBiPRmq7OQA==>

4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/vGPYOsIshplus5oP4oqZUubPe6bQ==>

4161.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/slshDuDv2feWQAEpz023plusfRplusw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/PHI9sBLcJlntN00OfDssPg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAI5R65sg==>

4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==
4212.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSplusIZshunh0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YnZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4259	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==
4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tIshtXI7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFlBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWToZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1BmhT1IpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJzjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUhwINDsPTudg==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/k38J1bQYp5p2kv5Y1AbtVg==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXERewnmhnh4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==

4361.9

Catastrophic Leave Program -

<https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydncOQ==>

Policy 4141: Collective Bargaining Agreement

Status: ADOPTED

Original Adopted Date: 09/01/1988 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: The following optional policy addresses the implementation of the collective bargaining agreement adopted by the Governing Board following a process of negotiations with the exclusive representatives of employees. See BP 4143/4243 - Negotiations/Consultation for information about the bargaining process.

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

CSBA NOTE: Districts should consider deleting policies and administrative regulations on topics covered in collective bargaining agreements or retaining them only after determining that the provisions in the policy or regulation are consistent with the adopted agreements. Some policies or regulations may also need to be retained and/or modified when they pertain to unrepresented employees. Should a contract and a policy conflict, the district may be required to grant the benefits in both documents, even if the district believed that the contract was intended to supersede the policy. See BB 9310 - Board Policies.

If the district has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the district's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement. Such districts may revise the following paragraph to clarify that the negotiated agreement supersedes any conflicting rules of the personnel commission.

In *United Teachers of Los Angeles v. Los Angeles Unified School District*, the California Supreme Court held that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced.

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

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 References

- 8 CCR 31001-32997
- Ed. Code 35035
- Ed. Code 35036
- Ed. Code 35160
- Ed. Code 35160.1
- Ed. Code 45220-45320
- Gov. Code 3540-3549.3

Description

- Regulations of employee relations boards
- Powers and duties of the superintendent; transfer authority
- Voluntary transfers
- Authority of governing boards
- Broad authority of school districts
- Merit system, classified employees
- Educational Employment Relations Act

Management Resources References

Website

Description

AASA The School Superintendents Association - <https://simbli.eboardsolutions.com/SU/MQaF8AO8cslshSifGc13QQoEQ==>

Cross References

1240

Description

Volunteer Assistance - <https://simbli.eboardsolutions.com/SU/I0plusjL37x0n3urH8swnxKmg==>

1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/cdt3fdn6VaelC4abAUxqvw==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/LrVolqfclYl2xu1JwALPIA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/dsYh5z2XBXhfJlxF1rZnYA==
3100	Budget - https://simbli.eboardsolutions.com/SU/E9WiPslshZXDV9ziANTx1KhOA==
3100	Budget - https://simbli.eboardsolutions.com/SU/oYXiGppv3xy93naslshoZL75Q==
4000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/DaplussKWQPVKltmBEIQ9CtTQ==
4100	Certificated Personnel - https://simbli.eboardsolutions.com/SU/E2P6KI83cCOhiUDTTk896w==
4112.21	Interns - https://simbli.eboardsolutions.com/SU/EWmlznFRRwBcppB5ay88VQ==
4112.21	Interns - https://simbli.eboardsolutions.com/SU/SRvOfYk7WG7YBBBeRgHQKhg==
4112.23	Special Education Staff - https://simbli.eboardsolutions.com/SU/n9dD3PnbLu3slshA9CYLRFtyw==
4113	Assignment - https://simbli.eboardsolutions.com/SU/OnQtHDIY0fb2z3wtY1kSTA==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BPSbjgh2i5nrmbVplus56xVnQ==
4113.5	Working Remotely - https://simbli.eboardsolutions.com/SU/y8QNCTXK0UEqISd7ZFPXog==
4114	Transfers - https://simbli.eboardsolutions.com/SU/ponAtvrqEqj9UaLslshslsheVg0g==
4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/BG9EuCP8VTbfGhTsfjhBuA==
4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/FawCisRbOpFkZj4coDQ4Hg==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==
4131.1	Teacher Support And Guidance - https://simbli.eboardsolutions.com/SU/03guhKSLSlvBpluswtslshTzNcYw==
4131.1	Teacher Support And Guidance - https://simbli.eboardsolutions.com/SU/tn2Jz6QbiceERdi5WVUQMw==
4140	Bargaining Units - https://simbli.eboardsolutions.com/SU/xia7gHvsbyY7Un6QMDy6qQ==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/ALRo0XvNwnxmQNX61plus6n4A==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/uclzy874J1S1FFevC9aP1g==
4143	Negotiations/Consultation - https://simbli.eboardsolutions.com/SU/AczJRNEXFplusyf4M5jJT4DGA==
4143.1	Public Notice - Personnel Negotiations - https://simbli.eboardsolutions.com/SU/zCVCWQjwgYZq3bQltslshBWIg==

4143.1 Public Notice - Personnel Negotiations -
<https://simbli.eboardsolutions.com/SU/cPHL5sRtBB01OPknryQiNw==>

4151 Employee Compensation -
<https://simbli.eboardsolutions.com/SU/vslshSTFJTJt4m5Gm2B7Ru9iQ==>

4154 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/1Cmofor0KYCfPNJAyslshwjDA==>

4154 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/P6bZrO7lpHOznFGbdIDosQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPaiBiPRmq7OQA==>

4161.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4200 Classified Personnel -
<https://simbli.eboardsolutions.com/SU/zGSmnN9AQUnbuf77aX6gHQ==>

4200 Classified Personnel -
<https://simbli.eboardsolutions.com/SU/K9kMeHzc5nsslshlqslp4caow==>

4213.5 Working Remotely -
<https://simbli.eboardsolutions.com/SU/IXCmYz2BIPsFgLxaiCxsKw==>

4215 Evaluation/Supervision -
<https://simbli.eboardsolutions.com/SU/O2XQLmg97EZm2xfffPoj1FA==>

4218.1 Dismissal/Suspension/Disciplinary Action (Merit System) -
<https://simbli.eboardsolutions.com/SU/T6F1D1YapOA3FeSnf7j9vQ==>

4240 Bargaining Units -
<https://simbli.eboardsolutions.com/SU/kKigOhln2zgMhswxGQFviw==>

4241.6 Concerted Action/Work Stoppage -
<https://simbli.eboardsolutions.com/SU/lrHXjKpBLvgtazOYyXFxA==>

4241.6 Concerted Action/Work Stoppage -
<https://simbli.eboardsolutions.com/SU/fgHHmKuihR4PijpslshslshEcTnA==>

4243 Negotiations/Consultation -
<https://simbli.eboardsolutions.com/SU/VQQYtK14caqXzevaGO8xyQ==>

4243.1 Public Notice - Personnel Negotiations -
<https://simbli.eboardsolutions.com/SU/ceU3ZMIHKzWnslshTyewyy8aA==>

4243.1 Public Notice - Personnel Negotiations -
<https://simbli.eboardsolutions.com/SU/smqplusWEoDwDFioSwn8PapaQ==>

4251 Employee Compensation -
<https://simbli.eboardsolutions.com/SU/dMws0pNtF49xEKmslshTpDMuQ==>

4254 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/Wr4iEgXKTloplusm3iOoUjBhQ==>

4254 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/Jxorslshexe1GplusoplusvzXtjplusGkQ==>

4261 Leaves -
<https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tslshXl7wt8g==>

4261 Leaves -
<https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==>

4261.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/zzRtYKgL1tBXWToZaEUw==>

4313.5 Working Remotely -
<https://simbli.eboardsolutions.com/SU/TSFTTkGx9tP7IWA7zsMR0g==>

4340 Bargaining Units -
<https://simbli.eboardsolutions.com/SU/3ycGEcXBH41wW8r2g1DWhw==>

4351	Employee Compensation - https://simbli.eboardsolutions.com/SU/HUifMNIQAZkWYS7IBa0JeA==
4354	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/plus7v9UkqfLD0kXtclZslshAL2w==
4354	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/T89W9Ejgrc2mXCEF4EVpCQ==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXErewnmnh4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjaMUmMnWqw==
6151	Class Size - https://simbli.eboardsolutions.com/SU/ZtxM7H17PnM1I70VnplusgslshrA==
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/QFqplus0PXxgCAfOhwNmH9Y3w==
9310	Board Policies - https://simbli.eboardsolutions.com/SU/einsh0fXScOPa0OajS6jR1A==

Policy 4158: Employee Security

Status: ADOPTED

Original Adopted Date: 07/01/2001 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810

authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

Employees shall not carry or possess pepper spray on school property or at school activities except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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 References

Description

CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7IplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas

Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Juvenile court proceedings; reports; confidentiality
W&I Code 828.1	Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2

Description

Scope of bargaining

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSifGc13QQoEQ==>

Cross References

0450

Description

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAgoQ==>

0450

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79Jj5QQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYIBced4GDazCYjyzMdoA==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmwzww==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>

3515.7 Firearms On School Grounds -
<https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==>

3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==>

3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==>

4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/OIB0QFiL0yplusxMGjgWUBPgQ==>

4131 Staff Development -
<https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshhtng==>

4156.3 Employee Property Reimbursement -
<https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==>

4157 Employee Safety -
<https://simbli.eboardsolutions.com/SU/nrUHcmegslshGNOwteRpl1dg==>

4157 Employee Safety -
<https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==>

4219.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==>

4231 Staff Development -
<https://simbli.eboardsolutions.com/SU/2NKfwcNusrdJnY7VMnle3A==>

4256.3 Employee Property Reimbursement -
<https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==>

4257 Employee Safety -
<https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUsIshKRwdqWAbw==>

4257 Employee Safety -
<https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==>

4319.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoNOL7jQ==>

4319.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQG0jg==>

4331 Staff Development -
<https://simbli.eboardsolutions.com/SU/2DzaKVWFWggWZZZGWyC2Mg==>

4356.3 Employee Property Reimbursement -
<https://simbli.eboardsolutions.com/SU/AeW5wwwyhE8cYQhqBQxo50g==>

4357 Employee Safety -
<https://simbli.eboardsolutions.com/SU/15j2UslshRzslshJtWeioNilJvxx==>

4357 Employee Safety -
<https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tIB2Z8U9uEMeDg==>

5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkPzslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1lZtF9Yw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==
5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/plus4asish6E34iqm4QEb7K8kslshhg==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities) - https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVfzKcg==

Regulation 4158: Employee Security

Status: ADOPTED

Original Adopted Date: 11/01/2000 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. (Education Code 44014)

Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. School district officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR 5144.1 - Suspension and Expulsion/Due Process. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee must inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

2. Offenses Reported to the District by a Court

CSBA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent must notify certain counselors, teachers, and administrators, as described in item #2.

In addition, Welfare and Institutions Code 828.1 specifies that a school district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the student, and such information must be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent or designee shall expeditiously notify the school principal. (Welfare and Institutions Code 827)
- b. The principal shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal thinks may need the information in order to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)
- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)
- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking

CSBA NOTE: Pursuant to Labor Code 230, the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim of domestic violence, sexual assault, or stalking. The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status as a victim of domestic violence, sexual assault, or stalking nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, or stalking to use available leave for the purposes of (1) obtaining relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; (2) seeking medical attention for injuries caused by the crime or abuse; (3) obtaining services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; (4) obtaining psychological counseling or mental health services related to an experience of crime or abuse; and/or (5) participating in safety planning and taking other actions to increase safety from future crime or abuse, including temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury,

and employees whose immediate family member is deceased as the direct result of a crime. See AR 4161.2/4261.2/4361.2 - Personal Leaves.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (Labor Code 230)

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking. Such certification may include: (Labor Code 230)

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

Any verbal or written statement, police or court record, or other documentation identifying an employee as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (Labor Code 230)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (Labor Code 230)

The district shall not retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (Labor Code 230)

Use of Pepper Spray

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee.

Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

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 References

Description

CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7lplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Juvenile court proceedings; reports; confidentiality

W&I Code 828.1 Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2

Description

Scope of bargaining

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

Description

- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAgoQ==>
- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYlBced4GDazCYjyzMdoA==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>
- 3515.7 Firearms On School Grounds -
<https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscY3ibw==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotIfyCi8dg3XGslsh0g==>
- 4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>
- 4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/0IB0QFiL0yplusxMGjgWUBPgQ==>
- 4131 Staff Development -
<https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshhtng==>

4156.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/nrUHcmegslshGNOwteRpl1dg==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrjdnY7VMnle3A==
4256.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUslshKRwdqWAbw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoNOL7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVFWFggWZZZGWyC2Mg==
4356.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/AeW5wwyhE8cYQhqBQxo50g==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/l5j2UslshRzslshJtWeioNilJvxw==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tIB2Z8U9uEMeDg==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkPzslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1IZtF9Yw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==

- 5141 Health Care And Emergencies -
<https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/plus4aslsh6E34iqm4QEb7K8kslshhg==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==>
- 5144.2 Suspension And Expulsion/Due Process (Students With Disabilities) -
<https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVFzKcg==>

Policy 4212.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 02/01/1996 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires individuals employed as drivers of other school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

A driver shall not report for duty or remain on duty when the driver has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver is using the drug under the direction of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.213)

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

CSBA NOTE: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

CSBA NOTE: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following optional paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

CSBA NOTE: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is optional. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

If the substance abuse professional recommends that further and ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

Voluntary Self-Identification

CSBA NOTE: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is mandated to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over the drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral,

evaluation, and treatment, provided that the driver does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until the driver has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

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 References

	Description
13 CCR 1200-1293	Motor carrier safety - https://simbli.eboardsolutions.com/SU/yQSHDNRNieMnhAVA3MDcgQ==
13 CCR 1212-1228	School bus driver requirements - https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==
Ed. Code 35160	Authority of governing boards
Gov. Code 8355	Certification of drug-free workplace, including notification
Veh. Code 13376	Driver certificates; revocation or suspension
Veh. Code 34500-34520.5	Safety regulations

Federal References

	Description
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.605	Controlled substance and alcohol use and testing
49 CFR 382.205	On-duty use
49 CFR 382.207	Pre-duty use
49 CFR 382.209	Use following an accident
49 CFR 40.1-40.413	Procedures for transportation workplace drug and alcohol testing programs
49 USC 31306	Alcohol and drug testing

Management Resources References

	Description
California Highway Patrol Publication	Controlled Substances and Alcohol Testing Compliance Checklist, 2007
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==

Cross References

	Description
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/TRPSJQQAB6pluslceOnc7Uc4Q==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshy6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
3540	Transportation - https://simbli.eboardsolutions.com/SU/NplusVzfbE4guWaAslsh5kxQxQ==
3542	School Bus Drivers - https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODFgIH55kMGUQ==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/UMXHY6GhggW5K0JKPazWzA==
3580	District Records - https://simbli.eboardsolutions.com/SU/tiZyOh2U34W75RhFVAplustcQ==

3580 District Records -
<https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==>

4020 Drug And Alcohol-Free Workplace -
<https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==>

4112.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslhhdDpwA==>

4112.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR62BA==>

4112.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/m6xBbweAaslhVdzzK1UT33kA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotlfiCi8dg3XGslsh0g==>

4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/0IBOQFiL0yplusxMGjgWUBPgQ==>

4159 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slshIQPalBiPRmq7OQA==>

4161.1 Personal Illness/Injury Leave -
<https://simbli.eboardsolutions.com/SU/vGPYOsLshplus5oP4oqZUubPe6bQ==>

4161.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4161.9 Catastrophic Leave Program -
<https://simbli.eboardsolutions.com/SU/slshDuDv2feWQAEpz023plusfRplusw==>

4161.9 Catastrophic Leave Program -
<https://simbli.eboardsolutions.com/SU/PHI9sBLcJlntN00OfDssPg==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==>

4212.41 Employee Drug Testing -
<https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAl5R65sg==>

4212.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==>

4212.9-E(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSpluslZshunh0A==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslhGOEQYILw==>

4218 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==>

4219.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==>

4259 Employee Assistance Programs -
<https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==>

4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tslshtXI7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFIBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWToZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1IBmhT1lpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJZjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUhWiNDsPTudg==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/k38J1bQYp5p2kv5Y1AbtVg==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXErewnmhn4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydncOQ==

Regulation 4212.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 08/01/2013 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following administrative regulation reflects state and federal requirements (Vehicle Code 34520; 49 CFR 40.1-40.413, 382.101-382.605) for drug and alcohol testing of school bus drivers, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Pursuant to 49 CFR 40.27, the district must not require a driver to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.

Definitions

CSBA NOTE: Regardless of state medical or recreational marijuana laws, marijuana remains an illegal drug under the Controlled Substances Act and use of it by a driver remains a violation of federal drug testing regulations.

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. (49 CFR 40.3, 382.107)

Safety-sensitive function means all time from the time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus or other school transportation vehicle; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the vehicle or vehicle equipment; loading or unloading the vehicle; supervising or assisting in the loading or unloading of the vehicle; and repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (49 CFR 382.107)

Designated Employer Representative

CSBA NOTE: 49 CFR 40.35 and 40.215 require the district to identify a "designated employer representative" to perform the duties specified in 49 CFR 40.3. The following paragraph may be revised to reflect the title of the employee so designated.

The Superintendent or designee shall identify a designated employer representative who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

Pre-employment Testing

CSBA NOTE: Pursuant to 49 CFR 382.701, districts are required to conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse's online database, available on its web site, to obtain information about an applicant. Pursuant to 49 CFR 40.25 and 382.413, districts must also, until January 6, 2023, continue to request a driver's drug and alcohol testing record from any employer who has employed the driver during the previous three years.

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and 382.413, from any employer who has employed the driver at any time during the previous three years. To the extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions. In addition, the Superintendent or designee shall ask the driver if there was a positive test, or a refusal to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that was not obtained. (49 CFR 40.25, 382.413)

The driver shall not be permitted to perform safety-sensitive functions if the driver refuses to provide consent to obtain the information from previous employers or from the Clearinghouse; the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district; or the driver, the Clearinghouse, or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413, 382.701, 382.703)

A driver whom the district intends to hire or use shall undergo testing for drugs and receive a verified negative test result prior to the first time the driver performs safety-sensitive functions for the district. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months from the date of application or participated in a random drug testing program for the previous 12 months from the date of application.
3. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

The Superintendent or designee shall contact the testing program(s) in which the driver has participated and obtain information about the program and the driver's participation as specified in 49 CFR 382.301.

CSBA NOTE: The following optional paragraph is for use by districts that choose to conduct pre-employment alcohol testing; see the accompanying Board policy. Pursuant to 49 CFR 382.301, pre-employment alcohol testing is not required but, if the district chooses to conduct such testing, it must comply with the following requirements.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving traffic violation within eight hours of the accident and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

Random Testing

CSBA NOTE: The district may revise the following paragraph to specify the method by which it will select drivers for random drug and alcohol testing. Pursuant to 49 CFR 382.305, the district must randomly select drivers for testing using a scientifically valid method such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Pursuant to 49 CFR 40.347, the district may contract with a third-party administrator or join a consortium of employers to operate the random selection process.

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

Such tests shall be unannounced and conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

CSBA NOTE: Pursuant to 49 CFR 382.305, the district must annually test at least 10 percent of district drivers for alcohol and at least 25 percent for drugs. However, the minimum required percentage is subject to change as determined necessary by the Federal Motor Carrier Safety Administration (FMCSA). Any such change will be

published in the Federal Register and on the FMCSA's web site and will be effective starting January 1 following such publication.

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

CSBA NOTE: The following section may be revised to reflect the position (e.g., driver's supervisor or other district employee) authorized and trained to make observations for reasonable suspicion drug or alcohol testing.

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after the driver completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

CSBA NOTE: Pursuant to 49 CFR 40.307, after a driver successfully complies with education and treatment services, the substance abuse professional will prescribe a follow-up testing plan and will present that plan to the designated employer representative. The plan must direct that the driver be subject to at least six unannounced follow-up tests in the first 12 months following the driver's return to safety-sensitive functions.

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those

included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

Notifications

CSBA NOTE: Pursuant to 49 CFR 382.601, the district is mandated to adopt policy and procedures pertaining to misuse of drugs and alcohol and to provide these materials to each driver. When conducting compliance inspections, the California Highway Patrol reviews whether district policy or regulations contain all of items #1-12 below.

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.113, 382.303, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee

assistance program, and/or referral to management

12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse

Each driver shall sign a statement certifying receipt of a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Records

CSBA NOTE: 49 CFR 40. 333 and 382.401 specify the records that must be retained by the district and how long each record must be retained (i.e., one year, two years, three years, five years, or indefinitely). Upon receiving a request from the FMCSA to inspect any such record, the district must make the record(s) available for inspection at the district office within two business days.

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

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 References

13 CCR 1200-1293

13 CCR 1212-1228

Ed. Code 35160

Gov. Code 8355

Veh. Code 13376

Veh. Code 34500-34520.5

Description

Motor carrier safety -

<https://simbli.eboardsolutions.com/SU/yQSHDNRNieMnhAVA3MDcgQ==>

School bus driver requirements -

<https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==>

Authority of governing boards

Certification of drug-free workplace, including notification

Driver certificates; revocation or suspension

Safety regulations

Federal References

21 CFR 1308.11-1308.15

41 USC 8101-8106

49 CFR 382.101-382.605

49 CFR 382.205

49 CFR 382.207

49 CFR 382.209

49 CFR 40.1-40.413

49 USC 31306

Description

Controlled substances

Drug-Free Workplace Act

Controlled substance and alcohol use and testing

On-duty use

Pre-duty use

Use following an accident

Procedures for transportation workplace drug and alcohol testing programs

Alcohol and drug testing

Management Resources References

California Highway Patrol Publication

Website

Description

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

AASA The School Superintendents Association -

<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSfGc13QQoEQ==>

Cross References

Description

3513.4 Drug And Alcohol Free Schools - <https://simbli.eboardsolutions.com/SU/TRPSJQQAB6pluslceOnc7Uc4Q==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>

3540 Transportation - <https://simbli.eboardsolutions.com/SU/NplusVzfbse4guWaAslsh5kxQxQ==>

3542 School Bus Drivers - <https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODFglH55kMGUQ==>

3543 Transportation Safety And Emergencies - <https://simbli.eboardsolutions.com/SU/UMXHY6GhgW5K0JKPazWzA==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/tjZyOh2U34W75RhFVAplustcQ==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==>

4020 Drug And Alcohol-Free Workplace - <https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslshhDdpwA==>

4112.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR62BA==>

4112.9-E(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/m6xBbweAaslshVdzzK1UT33kA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==>

4119.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards - <https://simbli.eboardsolutions.com/SU/OIBOQFiL0yplusxMGjgWUBPgQ==>

4159 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPAlBiPRmq7OQA==>

4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/vGPYOsIshplus5oP4oqZUubPe6bQ==>

4161.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/slshDuDv2feWQAEpz023plusfRplusw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/PHI9sBLcJlntN00OfDssPg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAI5R65sg==>

4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==
4212.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSplusIZshunh0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YnZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4259	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==
4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tslshTxl7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFlBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWToZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1BmhT1lpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJZjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUjWiNDsPTudg==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/k38J1bQYp5p2kv5Y1AbtVg==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXERewnmhnh4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vl9OX9sYH3Cv6slshdqslshN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==

4361.9

Catastrophic Leave Program -

<https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydncOQ==>

Policy 4241: Collective Bargaining Agreement

Status: ADOPTED

Original Adopted Date: 09/01/1988 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: The following optional policy addresses the implementation of the collective bargaining agreement adopted by the Governing Board following a process of negotiations with the exclusive representatives of employees. See BP 4143/4243 - Negotiations/Consultation for information about the bargaining process.

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

CSBA NOTE: Districts should consider deleting policies and administrative regulations on topics covered in collective bargaining agreements or retaining them only after determining that the provisions in the policy or regulation are consistent with the adopted agreements. Some policies or regulations may also need to be retained and/or modified when they pertain to unrepresented employees. Should a contract and a policy conflict, the district may be required to grant the benefits in both documents, even if the district believed that the contract was intended to supersede the policy. See BB 9310 - Board Policies.

If the district has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the district's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement. Such districts may revise the following paragraph to clarify that the negotiated agreement supersedes any conflicting rules of the personnel commission.

In *United Teachers of Los Angeles v. Los Angeles Unified School District*, the California Supreme Court held that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced.

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

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 References

- 8 CCR 31001-32997
- Ed. Code 35035
- Ed. Code 35036
- Ed. Code 35160
- Ed. Code 35160.1
- Ed. Code 45220-45320
- Gov. Code 3540-3549.3

Description

- Regulations of employee relations boards
- Powers and duties of the superintendent; transfer authority
- Voluntary transfers
- Authority of governing boards
- Broad authority of school districts
- Merit system, classified employees
- Educational Employment Relations Act

Management Resources References

Website

Description

AASA The School Superintendents Association - <https://simbli.eboardsolutions.com/SU/MQaF8AO8cslshSifGc13QQoEQ==>

Cross References

0500

Description

Accountability - <https://simbli.eboardsolutions.com/SU/dm48YxjLasn10a0o8AvNrQ==>

1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/I0plusjL37x0n3urH8swnxKmg==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/cdt3fdn6VaelC4abAUxqvw==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/LrVolqfclyl2xu1JwALPIA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/dsYh5z2XBXhfJlxF1rZnYA==
3100	Budget - https://simbli.eboardsolutions.com/SU/E9WiPslshZXDV9ziANTx1KhOA==
3100	Budget - https://simbli.eboardsolutions.com/SU/oYXiGppv3xy93naslshoZL75Q==
4000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/DAPlussKWQPVklmBEIQ9CtTQ==
4100	Certificated Personnel - https://simbli.eboardsolutions.com/SU/E2P6KI83cCOhiUDTTk896w==
4112.21	Interns - https://simbli.eboardsolutions.com/SU/EWmlznFRRwBcppB5ay88VQ==
4112.21	Interns - https://simbli.eboardsolutions.com/SU/SRvOfyk7WG7YBBerGhQKhg==
4112.23	Special Education Staff - https://simbli.eboardsolutions.com/SU/n9dD3Pnblu3slshA9CYLRFTyw==
4113	Assignment - https://simbli.eboardsolutions.com/SU/OnQtHDIY0fb2z3wtY1kSTA==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BPSbjgh2i5nrmbVplus56xVnQ==
4113.5	Working Remotely - https://simbli.eboardsolutions.com/SU/y8QNCTXK0UEqISd7ZFPXog==
4114	Transfers - https://simbli.eboardsolutions.com/SU/ponAtvrqEqj9UaLslshslsheVg0g==
4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/BG9EuCP8VTbfGhTsfjhBuA==
4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/FawCisRbOpFkZj4coDQ4Hg==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/NtOrUlotllyCi8dg3XGslsh0g==
4131.1	Teacher Support And Guidance - https://simbli.eboardsolutions.com/SU/03guhKSLSlvBpluswtslshTzNcYw==
4131.1	Teacher Support And Guidance - https://simbli.eboardsolutions.com/SU/tn2Jz6QbiceERdi5WVUQMw==
4140	Bargaining Units - https://simbli.eboardsolutions.com/SU/xia7gHvsbyY7Un6QMDy6qQ==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/ALRo0XvNwnxmQNX61plus6n4A==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/uclzy874J1S1FFevC9aP1g==
4143	Negotiations/Consultation - https://simbli.eboardsolutions.com/SU/AczJRNEXFplusyf4M5jJT4DGA==

4143.1 Public Notice - Personnel Negotiations - <https://simbli.eboardsolutions.com/SU/zCVCWQjwgYZq3bQltslshBWlg==>

4143.1 Public Notice - Personnel Negotiations - <https://simbli.eboardsolutions.com/SU/cPHL5sRtBB01OPknryQiNw==>

4151 Employee Compensation - <https://simbli.eboardsolutions.com/SU/vslshSTFJTJt4m5Gm2B7Ru9iQ==>

4154 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/1Cmofor0KYCfPNJAyslshwjDA==>

4154 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/P6bZrO7lpHOznFGbdIDosQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPalBiPRmq7OQA==>

4161.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4200 Classified Personnel - <https://simbli.eboardsolutions.com/SU/zGSmnN9AQUnbuf77aX6gHQ==>

4200 Classified Personnel - <https://simbli.eboardsolutions.com/SU/K9kMeHzc5nsslshlqslp4caow==>

4213.5 Working Remotely - <https://simbli.eboardsolutions.com/SU/IXCmYz2BIPsFgLxaiCxsKw==>

4215 Evaluation/Supervision - <https://simbli.eboardsolutions.com/SU/O2XQLmg97EZm2xffPoj1FA==>

4218.1 Dismissal/Suspension/Disciplinary Action (Merit System) - <https://simbli.eboardsolutions.com/SU/T6F1D1YapOA3FeSnf7j9vQ==>

4240 Bargaining Units - <https://simbli.eboardsolutions.com/SU/kKigOhIn2zgMhswxGQFviw==>

4241.6 Concerted Action/Work Stoppage - <https://simbli.eboardsolutions.com/SU/lrHXjKpBLvgptazOYyXFxA==>

4241.6 Concerted Action/Work Stoppage - <https://simbli.eboardsolutions.com/SU/fgHHmKuihR4PijpslshslshEcTnA==>

4243 Negotiations/Consultation - <https://simbli.eboardsolutions.com/SU/VQQYtK14caqXzevaGO8xyQ==>

4243.1 Public Notice - Personnel Negotiations - <https://simbli.eboardsolutions.com/SU/ceU3ZMIHKzWnslshTyewyy8aA==>

4243.1 Public Notice - Personnel Negotiations - <https://simbli.eboardsolutions.com/SU/smqplusWEoDwDFioSwN8PapaQ==>

4251 Employee Compensation - <https://simbli.eboardsolutions.com/SU/dMws0pNtF49xEKmslshTpDMuQ==>

4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/Wr4iEgXKTLoplusm3iOoUjBhQ==>

4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/Jxorslshexe1GplusoplusvzXtjplusGkQ==>

4261 Leaves - <https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3ttslshXI7wt8g==>

4261 Leaves - <https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==>

4261.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/zzRtYKgL1tBXWToZaEUw==>

4313.5 Working Remotely - <https://simbli.eboardsolutions.com/SU/TSfTTkGx9tP7IWA7zsMR0g==>

4340	Bargaining Units - https://simbli.eboardsolutions.com/SU/3ycGEcXBH41wW8r2g1DWhw==
4351	Employee Compensation - https://simbli.eboardsolutions.com/SU/HUifMNIQAZkWYS7IBa0JeA==
4354	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/plus7v9UkqfLD0kXtclZslshAL2w==
4354	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/T89W9Ejgrc2mXCEF4EVpCQ==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXErewnmnh4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjaMUmMNwqw==
6151	Class Size - https://simbli.eboardsolutions.com/SU/ZtxM7H17PnM1I70VnplusgslshrA==
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/QFqplus0PXxgCAfOhwNmH9Y3w==
9310	Board Policies - https://simbli.eboardsolutions.com/SU/einslsh0fXScOPa0OAJ56jR1A==

Policy 4258: Employee Security

Status: ADOPTED

Original Adopted Date: 07/01/2001 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810

authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

Employees shall not carry or possess pepper spray on school property or at school activities except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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 References

Description

CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7IplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas

Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Juvenile court proceedings; reports; confidentiality
W&I Code 828.1	Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2

Description

Scope of bargaining

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSifGc13QQoEQ==>

Cross References

0450

Description

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAgoQ==>

0450

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79Jj5QQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYIBced4GDazCYjyzMdoA==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmwzww==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>

3515.7	Firearms On School Grounds - https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==
4119.21	Professional Standards - https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==
4119.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/OIB0QFiL0yplusxMGjgWUBPgQ==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4156.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/nrUHcmegslshGNOwteRpl1dg==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrdJnY7VMnle3A==
4256.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUsIshKRwdqWAbw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoNOL7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQG0jg==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVFWFWggWZZZGWyC2Mg==
4356.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/AeW5wwwyhE8cYQhqBQxo50g==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/15j2UslshRzslshJtWeioNilJvxw==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tIB2Z8U9uEMeDg==

5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkpZslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1lZtF9Yw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==
5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/plus4asish6E34iqm4QEb7K8kslshhg==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities) - https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVfzKcg==

Regulation 4258: Employee Security

Status: ADOPTED

Original Adopted Date: 11/01/2000 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. (Education Code 44014)

Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. School district officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR 5144.1 - Suspension and Expulsion/Due Process. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee must inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

2. Offenses Reported to the District by a Court

CSBA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent must notify certain counselors, teachers, and administrators, as described in item #2.

In addition, Welfare and Institutions Code 828.1 specifies that a school district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the student, and such information must be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent or designee shall expeditiously notify the school principal. (Welfare and Institutions Code 827)
- b. The principal shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal thinks may need the information in order to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)
- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)
- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking

CSBA NOTE: Pursuant to Labor Code 230, the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim of domestic violence, sexual assault, or stalking. The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status as a victim of domestic violence, sexual assault, or stalking nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, or stalking to use available leave for the purposes of (1) obtaining relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; (2) seeking medical attention for injuries caused by the crime or abuse; (3) obtaining services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; (4) obtaining psychological counseling or mental health services related to an experience of crime or abuse; and/or (5) participating in safety planning and taking other actions to increase safety from future crime or abuse, including temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury,

and employees whose immediate family member is deceased as the direct result of a crime. See AR 4161.2/4261.2/4361.2 - Personal Leaves.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (Labor Code 230)

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking. Such certification may include: (Labor Code 230)

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

Any verbal or written statement, police or court record, or other documentation identifying an employee as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (Labor Code 230)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (Labor Code 230)

The district shall not retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (Labor Code 230)

Use of Pepper Spray

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee.

Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

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 References

Description

CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7lplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials

W&I Code 827 Juvenile court proceedings; reports; confidentiality
W&I Code 828.1 Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2 Scope of bargaining

Description

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

Description

- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAGoQ==>
- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYlBced4GDazCYjyzMdoA==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>
- 3515.7 Firearms On School Grounds -
<https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtWslshy6slshgQ==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotlIfyCi8dg3XGslsh0g==>
- 4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>
- 4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/OIB0QFiL0yplusxMGjgWUBPgQ==>

4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4156.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/nrUHcmegIslshGNOwteRpl1dg==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrjdnY7VMnle3A==
4256.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUslshKRwdqWAbw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuaEa85uQGOjg==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVWFWggWZZZGWyC2Mg==
4356.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/AeW5wwyhE8cYQhqBQxo50g==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/l5j2UslshRzslshJtWeioNilJvxw==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tlB2Z8U9uFMeDg==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5pluSgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkpZslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshTDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1lZtF9Yw==

- 5141 Health Care And Emergencies -
<https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==>
- 5141 Health Care And Emergencies -
<https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/plus4asish6E34iqm4QEb7K8kslshg==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRw==>
- 5144.2 Suspension And Expulsion/Due Process (Students With Disabilities) -
<https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVFzKcg==>

Policy 4312.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 02/01/1996 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires individuals employed as drivers of other school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

A driver shall not report for duty or remain on duty when the driver has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver is using the drug under the direction of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.213)

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

CSBA NOTE: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

CSBA NOTE: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following optional paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

CSBA NOTE: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is optional. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

If the substance abuse professional recommends that further and ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

Voluntary Self-Identification

CSBA NOTE: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is mandated to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over the drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral,

evaluation, and treatment, provided that the driver does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until the driver has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

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 References

	Description
13 CCR 1200-1293	Motor carrier safety - https://simbli.eboardsolutions.com/SU/yQSHDNRNieMnhAVA3MDcgQ==
13 CCR 1212-1228	School bus driver requirements - https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==
Ed. Code 35160	Authority of governing boards
Gov. Code 8355	Certification of drug-free workplace, including notification
Veh. Code 13376	Driver certificates; revocation or suspension
Veh. Code 34500-34520.5	Safety regulations

Federal References

	Description
21 CFR 1308.11-1308.15	Controlled substances
41 USC 8101-8106	Drug-Free Workplace Act
49 CFR 382.101-382.605	Controlled substance and alcohol use and testing
49 CFR 382.205	On-duty use
49 CFR 382.207	Pre-duty use
49 CFR 382.209	Use following an accident
49 CFR 40.1-40.413	Procedures for transportation workplace drug and alcohol testing programs
49 USC 31306	Alcohol and drug testing

Management Resources References

	Description
California Highway Patrol Publication	Controlled Substances and Alcohol Testing Compliance Checklist, 2007
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==

Cross References

	Description
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/TRPSJQQAB6pluslceOnc7Uc4Q==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwshty6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
3540	Transportation - https://simbli.eboardsolutions.com/SU/NplusVzfbE4guWaAslsh5kxQxQ==
3542	School Bus Drivers - https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODFgIH55kMGUQ==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/UMXHY6GhggW5K0JKPazWzA==
3580	District Records - https://simbli.eboardsolutions.com/SU/tiZyOh2U34W75RhfvAplustcQ==

3580	District Records - https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==
4020	Drug And Alcohol-Free Workplace - https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==
4112.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==
4112.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslshhDdpwA==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR6ZBA==
4112.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/m6xBbweAaslhVdzzK1UT33kA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/NtOrUlotlfiCi8dg3XGslsh0g==
4119.21	Professional Standards - https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==
4119.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/0IBOQFiL0yplusxMGjgWUBPgQ==
4159	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==
4161	Leaves - https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==
4161	Leaves - https://simbli.eboardsolutions.com/SU/Qxcti8slsIQPalBiPRmq7OQA==
4161.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/vGPYOsIshplus5oP4oqZUubPe6bQ==
4161.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==
4161.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/sIshDuDv2feWQAEpz023plusfRplusw==
4161.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/PHI9sBLcJIntN00OfDssPg==
4212.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==
4212.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAl5R65sg==
4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==
4212.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSpluslZshunh0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4259	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==

4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tslshtXI7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFIBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWToZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1IBmhT1lpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJZjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUhWiNDsPTudg==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/k38J1bQYp5p2kv5Y1AbtVg==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuea85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXErewnmhn4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydcnCOQ==

Regulation 4312.42: Drug And Alcohol Testing For School Bus Drivers

Status: ADOPTED

Original Adopted Date: 08/01/2013 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following administrative regulation reflects state and federal requirements (Vehicle Code 34520; 49 CFR 40.1-40.413, 382.101-382.605) for drug and alcohol testing of school bus drivers, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Pursuant to 49 CFR 40.27, the district must not require a driver to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.

Definitions

CSBA NOTE: Regardless of state medical or recreational marijuana laws, marijuana remains an illegal drug under the Controlled Substances Act and use of it by a driver remains a violation of federal drug testing regulations.

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. (49 CFR 40.3, 382.107)

Safety-sensitive function means all time from the time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus or other school transportation vehicle; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the vehicle or vehicle equipment; loading or unloading the vehicle; supervising or assisting in the loading or unloading of the vehicle; and repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (49 CFR 382.107)

Designated Employer Representative

CSBA NOTE: 49 CFR 40.35 and 40.215 require the district to identify a "designated employer representative" to perform the duties specified in 49 CFR 40.3. The following paragraph may be revised to reflect the title of the employee so designated.

The Superintendent or designee shall identify a designated employer representative who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

Pre-employment Testing

CSBA NOTE: Pursuant to 49 CFR 382.701, districts are required to conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse's online database, available on its web site, to obtain information about an applicant. Pursuant to 49 CFR 40.25 and 382.413, districts must also, until January 6, 2023, continue to request a driver's drug and alcohol testing record from any employer who has employed the driver during the previous three years.

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and 382.413, from any employer who has employed the driver at any time during the previous three years. To the extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions. In addition, the Superintendent or designee shall ask the driver if there was a positive test, or a refusal to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that was not obtained. (49 CFR 40.25, 382.413)

The driver shall not be permitted to perform safety-sensitive functions if the driver refuses to provide consent to obtain the information from previous employers or from the Clearinghouse; the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district; or the driver, the Clearinghouse, or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413, 382.701, 382.703)

A driver whom the district intends to hire or use shall undergo testing for drugs and receive a verified negative test result prior to the first time the driver performs safety-sensitive functions for the district. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months from the date of application or participated in a random drug testing program for the previous 12 months from the date of application.
3. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

The Superintendent or designee shall contact the testing program(s) in which the driver has participated and obtain information about the program and the driver's participation as specified in 49 CFR 382.301.

CSBA NOTE: The following optional paragraph is for use by districts that choose to conduct pre-employment alcohol testing; see the accompanying Board policy. Pursuant to 49 CFR 382.301, pre-employment alcohol testing is not required but, if the district chooses to conduct such testing, it must comply with the following requirements.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving traffic violation within eight hours of the accident and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

Random Testing

CSBA NOTE: The district may revise the following paragraph to specify the method by which it will select drivers for random drug and alcohol testing. Pursuant to 49 CFR 382.305, the district must randomly select drivers for testing using a scientifically valid method such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Pursuant to 49 CFR 40.347, the district may contract with a third-party administrator or join a consortium of employers to operate the random selection process.

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

Such tests shall be unannounced and conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

CSBA NOTE: Pursuant to 49 CFR 382.305, the district must annually test at least 10 percent of district drivers for alcohol and at least 25 percent for drugs. However, the minimum required percentage is subject to change as determined necessary by the Federal Motor Carrier Safety Administration (FMCSA). Any such change will be

published in the Federal Register and on the FMCSA's web site and will be effective starting January 1 following such publication.

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

CSBA NOTE: The following section may be revised to reflect the position (e.g., driver's supervisor or other district employee) authorized and trained to make observations for reasonable suspicion drug or alcohol testing.

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after the driver completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

CSBA NOTE: Pursuant to 49 CFR 40.307, after a driver successfully complies with education and treatment services, the substance abuse professional will prescribe a follow-up testing plan and will present that plan to the designated employer representative. The plan must direct that the driver be subject to at least six unannounced follow-up tests in the first 12 months following the driver's return to safety-sensitive functions.

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those

included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

Notifications

CSBA NOTE: Pursuant to 49 CFR 382.601, the district is mandated to adopt policy and procedures pertaining to misuse of drugs and alcohol and to provide these materials to each driver. When conducting compliance inspections, the California Highway Patrol reviews whether district policy or regulations contain all of items #1-12 below.

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.113, 382.303, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee

assistance program, and/or referral to management

12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse

Each driver shall sign a statement certifying receipt of a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Records

CSBA NOTE: 49 CFR 40. 333 and 382.401 specify the records that must be retained by the district and how long each record must be retained (i.e., one year, two years, three years, five years, or indefinitely). Upon receiving a request from the FMCSA to inspect any such record, the district must make the record(s) available for inspection at the district office within two business days.

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

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 References

13 CCR 1200-1293

13 CCR 1212-1228

Ed. Code 35160

Gov. Code 8355

Veh. Code 13376

Veh. Code 34500-34520.5

Description

Motor carrier safety -

<https://simbli.eboardsolutions.com/SU/yQSHDNRNieMnhAVA3MDcgQ==>

School bus driver requirements -

<https://simbli.eboardsolutions.com/SU/F4wEpay66Fwj3JvJr5QX4A==>

Authority of governing boards

Certification of drug-free workplace, including notification

Driver certificates; revocation or suspension

Safety regulations

Federal References

21 CFR 1308.11-1308.15

41 USC 8101-8106

49 CFR 382.101-382.605

49 CFR 382.205

49 CFR 382.207

49 CFR 382.209

49 CFR 40.1-40.413

49 USC 31306

Description

Controlled substances

Drug-Free Workplace Act

Controlled substance and alcohol use and testing

On-duty use

Pre-duty use

Use following an accident

Procedures for transportation workplace drug and alcohol testing programs

Alcohol and drug testing

Management Resources References

California Highway Patrol Publication

Website

Description

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

AASA The School Superintendents Association -

<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSfGc13QQoEQ==>

Cross References

Description

3513.4 Drug And Alcohol Free Schools - <https://simbli.eboardsolutions.com/SU/TRPSJQQAB6plusceOnc7Uc4Q==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==>

3530 Risk Management/Insurance - <https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>

3540 Transportation - <https://simbli.eboardsolutions.com/SU/NplusVzfbse4guWaAslsh5kxQxQ==>

3542 School Bus Drivers - <https://simbli.eboardsolutions.com/SU/2jFvplususlshfmODFglH55kMGUQ==>

3543 Transportation Safety And Emergencies - <https://simbli.eboardsolutions.com/SU/UMXHY6GhgW5K0JKPazWzA==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/tjZyOh2U34W75RhfvAplustcQ==>

3580 District Records - <https://simbli.eboardsolutions.com/SU/mx2pATGNnig5phTfh7Z0Vw==>

4020 Drug And Alcohol-Free Workplace - <https://simbli.eboardsolutions.com/SU/f0R2aFFMgo6slsh61eBKu7Jng==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/HMW782bCwfXe1o3nDK5slshQw==>

4112.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/qvfelusyu7DIGQaslshhDdpwA==>

4112.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/l88wrhDpxLg5jDBfvR62BA==>

4112.9-E(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/m6xBbweAaslshVdzzK1UT33kA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>

4118 Dismissal/Suspension/Disciplinary Action - <https://simbli.eboardsolutions.com/SU/NtOrUlotlfiCi8dg3XGslsh0g==>

4119.21 Professional Standards - <https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>

4119.21-E(1) Professional Standards - <https://simbli.eboardsolutions.com/SU/OIBOQFiL0yplusxMGjgWUBPgQ==>

4159 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/pWqslshhw0gwwGgGx9p2PYQew==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/225d41AufzgHv82TIIM9TQ==>

4161 Leaves - <https://simbli.eboardsolutions.com/SU/Qxcti8slQPAlBiPRmq7OQA==>

4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/vGPYOsIshplus5oP4oqZUubPe6bQ==>

4161.8 Family Care And Medical Leave - <https://simbli.eboardsolutions.com/SU/pluseVR44plus08i9gUW3JFK1Cmw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/slshDuDv2feWQAEpz023plusfRplusw==>

4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/PHI9sBLcJlntN00OfDssPg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/gncF5Is45d7sOsQplussEZBEg==>

4212.41 Employee Drug Testing - <https://simbli.eboardsolutions.com/SU/h2wcl3hzamTKUeAI5R65sg==>

4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/wNkcqriKU8zHDZpluskuzZMuA==
4212.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/VKEb70SQzSbSplusIZshunh0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
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4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4259	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/CZA37B0Nwli00eBk2bE93Q==
4261	Leaves - https://simbli.eboardsolutions.com/SU/qsDBhdTvQDs3tIshtXI7wt8g==
4261	Leaves - https://simbli.eboardsolutions.com/SU/FyEcFjaAP5uyLpluszLZrslsh6GA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/QSoPMDcYj5VYyKxFlBslshRFA==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/zzRtYKgkLI1tBXWT0ZaEUw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/R8BfxPFZcff88DLEoguMBw==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/tRUui1BmhT1IpXNeGVHsw==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/peIXH9Bp4YZt6StJZjFO7w==
4312.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/MslshhrBZzNMfUhWiNDsPTudg==
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4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bTVjh5plusYsRslsh9QpArSBjn9A==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQGOjg==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/MNEslshblwXsolnuKyOruPSBw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/ApHHvqXERewnmhnh4JAplusplusA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/vI9OX9sYH3Cv6slshdqslshnN2zA==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/EngM6Vp3tXQzJ1a6oiwRTg==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/ZalsP2S6wGcjjamUMNwqw==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/wuYgVtEcslshs7K4tilK79nEw==

4361.9

Catastrophic Leave Program -

<https://simbli.eboardsolutions.com/SU/ZbCYDCJyGq6nTHHTydncOQ==>

Policy 4358: Employee Security

Status: ADOPTED

Original Adopted Date: 07/01/2001 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810

authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

Employees shall not carry or possess pepper spray on school property or at school activities except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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 References

Description

CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7IplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas

Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Juvenile court proceedings; reports; confidentiality
W&I Code 828.1	Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2

Description

Scope of bargaining

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSifGc13QQoEQ==>

Cross References

0450

Description

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtDVAGoQ==>

0450

Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79Jj5QQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>

3320

Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYIBced4GDazCYjyzMdoA==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmwzww==>

3515

Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>

3515.2

Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>

3515.3

District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>

3515.4

Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>

3515.7	Firearms On School Grounds - https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/NtOrUlotlfyCi8dg3XGslsh0g==
4119.21	Professional Standards - https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==
4119.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/OIB0QFiL0yplusxMGjgWUBPgQ==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshhtng==
4156.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/nrUHcmegslshGNOwteRpl1dg==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrdJnY7VMnle3A==
4256.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUsIshKRwdqWAbw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoNOL7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuEa85uQG0jg==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVFWFWggWZZZGWyC2Mg==
4356.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/AeW5wwwyhE8cYQhqBQxo50g==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/15j2UslshRzslshJtWeioNilJvxxw==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tIB2Z8U9uEMeDg==

5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkPzslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1lZtF9Yw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==
5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/plus4asish6E34iqm4QEb7K8kslshhg==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities) - https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVfzKcg==

Regulation 4358: Employee Security

Status: ADOPTED

Original Adopted Date: 11/01/2000 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. (Education Code 44014)

Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. School district officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR 5144.1 - Suspension and Expulsion/Due Process. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee must inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

2. Offenses Reported to the District by a Court

CSBA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent must notify certain counselors, teachers, and administrators, as described in item #2.

In addition, Welfare and Institutions Code 828.1 specifies that a school district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the student, and such information must be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent or designee shall expeditiously notify the school principal. (Welfare and Institutions Code 827)
- b. The principal shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal thinks may need the information in order to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)
- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)
- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking

CSBA NOTE: Pursuant to Labor Code 230, the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim of domestic violence, sexual assault, or stalking. The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status as a victim of domestic violence, sexual assault, or stalking nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, or stalking to use available leave for the purposes of (1) obtaining relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; (2) seeking medical attention for injuries caused by the crime or abuse; (3) obtaining services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; (4) obtaining psychological counseling or mental health services related to an experience of crime or abuse; and/or (5) participating in safety planning and taking other actions to increase safety from future crime or abuse, including temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury,

and employees whose immediate family member is deceased as the direct result of a crime. See AR 4161.2/4261.2/4361.2 - Personal Leaves.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (Labor Code 230)

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking. Such certification may include: (Labor Code 230)

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

Any verbal or written statement, police or court record, or other documentation identifying an employee as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (Labor Code 230)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (Labor Code 230)

The district shall not retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (Labor Code 230)

Use of Pepper Spray

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee.

Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

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 References	Description
CCP. 527.8	Workplace violence safety - https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7lplusYiDNCP8A==
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 32210-32212	Willful disturbance, public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by pupil against school employee
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48201	Student records for transfer students who have been suspended/expelled
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 995-996.4	Defense of public employees
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Crimes on school grounds
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials

W&I Code 827 Juvenile court proceedings; reports; confidentiality
W&I Code 828.1 Disclosure of criminal records; protection of vulnerable staff & students

Federal References

Gov. Code 3543.2 Scope of bargaining

Description

Management Resources References

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

Description

- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswxhtDVAGoQ==>
- 0450 Comprehensive Safety Plan -
<https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/rT1R05ezXZVv5lfaf7RseQ==>
- 3320 Claims And Actions Against The District -
<https://simbli.eboardsolutions.com/SU/toYlBced4GDazCYjyzMdoA==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==>
- 3515 Campus Security -
<https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/E4aRplus0K5cfFL7eM7ba6Qww==>
- 3515.2 Disruptions -
<https://simbli.eboardsolutions.com/SU/bits0bJpH3G1OQVFM8ZAUQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==>
- 3515.3 District Police/Security Department -
<https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==>
- 3515.4 Recovery For Property Loss Or Damage -
<https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==>
- 3515.7 Firearms On School Grounds -
<https://simbli.eboardsolutions.com/SU/njqANlv87MidGB1GXdqfQA==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtWslshy6slshgQ==>
- 3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/Ro3LwnE25F53slshYztSiquFA==>
- 4118 Dismissal/Suspension/Disciplinary Action -
<https://simbli.eboardsolutions.com/SU/NtOrUlotlIfyCi8dg3XGslsh0g==>
- 4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/6o1PpZJa0gLUSNslshDQLHXUQ==>
- 4119.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/OIB0QFiL0yplusxMGjgWUBPgQ==>

4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4156.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/HH0VqrtVslshDI307yJ438HHA==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/nrUHcmegIslshGNOwteRpl1dg==
4157	Employee Safety - https://simbli.eboardsolutions.com/SU/EBUFtRn12slshbDed5U4FhrRQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/gRJwAH2YNZCjoslshGOEQYILw==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/vU0QgFWP9PpIDCWdueXG2Q==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjvmojkfy0Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrdjnY7VMnle3A==
4256.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/F2GhDGEdk0wNRVWJhUbJWw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/meslshEFGWE2CDUslshKRwdqWAbw==
4257	Employee Safety - https://simbli.eboardsolutions.com/SU/kVuPi3azrjkBt8Yme8vzFQ==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxyplusMbpuaEa85uQGOjg==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVWFWggWZZZGWyC2Mg==
4356.3	Employee Property Reimbursement - https://simbli.eboardsolutions.com/SU/AeW5wwyehE8cYQhqBQxo50g==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/l5j2UslshRzslshJtWeioNilJvxw==
4357	Employee Safety - https://simbli.eboardsolutions.com/SU/Qf2Bqgs2tlB2Z8U9uFMeDg==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5pluzgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/mH0OWDV0T3P0FEWljkPzslshQ==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKOaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshTDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1lZtF9Yw==

- 5141 Health Care And Emergencies -
<https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==>
- 5141 Health Care And Emergencies -
<https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==>
- 5144 Discipline -
<https://simbli.eboardsolutions.com/SU/plus4aslsh6E34iqm4QEb7K8kslshg==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==>
- 5144.1 Suspension And Expulsion/Due Process -
<https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRw==>
- 5144.2 Suspension And Expulsion/Due Process (Students With Disabilities) -
<https://simbli.eboardsolutions.com/SU/9XYRgzAp89CRlrOOVFzKcg==>

Policy 5141.4: Child Abuse Prevention And Reporting

Status: ADOPTED

Original Adopted Date: 07/01/2002 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

The Governing Board is committed to supporting the safety and well-being of district students and desires to facilitate the prevention of and response to child abuse and neglect. The Superintendent or designee shall develop and implement strategies for preventing, recognizing, and promptly reporting known or suspected child abuse and neglect.

The Superintendent or designee may provide a student who is a victim of abuse with school-based mental health services or other support services and/or may refer the student to resources available within the community as needed.

Child Abuse Prevention

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

The district's instructional program may provide age-appropriate and culturally sensitive child abuse prevention curriculum which explains students' right to live free of abuse, includes instruction in the skills and techniques needed to identify unsafe situations and react appropriately and promptly, informs students of available support resources, and teaches students how to obtain help and disclose incidents of abuse.

CSBA NOTE: The following paragraph is optional. Education Code 51900.6 authorizes districts to provide age-appropriate instruction in sexual abuse and sexual assault awareness and prevention in grades K-12, provided that students are allowed to be excused from such instruction upon the written request of their parents/guardians. It also requires the State Board of Education and Superintendent of Public Instruction to consider addressing these issues in the next revision of the state health education content standards and curriculum framework.

The district's program also may include age-appropriate curriculum in sexual abuse and sexual assault awareness and prevention. Upon written request of a student's parent/guardian, the student shall be excused from taking such instruction. (Education Code 51900.6)

CSBA NOTE: Pursuant to Education Code 33133.5, posters notifying students of the appropriate telephone number to call to report child abuse or neglect are available on the California Department of Education's web site in five languages. Education Code 33133.5 encourages districts to post the appropriate version or versions of the poster in an area of the school where students frequently congregate.

The Superintendent or designee may display posters, in areas on campus where students frequently congregate, notifying students of the appropriate telephone number to call to report child abuse or neglect. (Education Code 33133.5)

CSBA NOTE: The following paragraph is for use by districts that serve students in grades 7-12. Education Code 215.5 requires districts that issue or reissue student identification cards to have the telephone number of the National Domestic Violence Hotline (1-800-799-7233) printed on either side of student identification cards.

In addition, student identification cards for students in grades 7-12 shall include the National Domestic Violence Hotline telephone number. (Education Code 215.5)

The Superintendent or designee shall, to the extent feasible, seek to incorporate community resources into the district's child abuse prevention programs and may use these resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

Child Abuse Reporting

CSBA NOTE: The Child Abuse and Neglect Reporting Act (Penal Code 11164-11174.3) identifies persons who are mandated to report known or suspected child abuse or neglect and establishes procedures for filing a report; see the accompanying administrative regulation.

The Superintendent or designee shall establish procedures for the identification and reporting of known and suspected child abuse and neglect in accordance with law.

Procedures for reporting child abuse shall be included in the district and/or school comprehensive safety plan. (Education Code 32282)

CSBA NOTE: Education Code 44252 requires that teachers applying to the Commission on Teacher Credentialing for a new credential or a renewal of their credential read and sign a statement that they understand the duties imposed on them as mandated reporters pursuant to Penal Code 11164-11174.3.

District employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect.

CSBA NOTE: Education Code 44691 and Penal Code 11165.7 require districts to annually train their employees

regarding the duties of mandated reporters; see the accompanying administrative regulation. However, pursuant to Penal Code 11165.7, a lack of training does not excuse any mandated reporter from the duty to report suspected child abuse and neglect.

The Superintendent or designee shall provide training regarding the duties of mandated reporters as required by law and as specified in the accompanying administrative regulation. (Education Code 44691; Penal Code 11165.7)

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 References

	Description
5 CCR 4650	Filing complaints with CDE, special education students
Ed. Code 32280-32289	School safety plans
Ed. Code 33195	Heritage schools, mandated reporters
Ed. Code 33308.1	Guidelines on procedure for filing child abuse complaints
Ed. Code 44252	Teacher credentialing
Ed. Code 44691	Information on detection of child abuse
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48906	Notification of release of student to peace officer
Ed. Code 48987	Child abuse guidelines
Ed. Code 49001	Prohibition of corporal punishment
Ed. Code 51220.5	Parenting skills and education
Ed. Code 51900.6	Sexual abuse and sexual assault awareness and prevention
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
Pen. Code 152.3	Duty to report murder, rape, or lewd or lascivious act
Pen. Code 273a	Willful cruelty or unjustifiable punishment of child; endangering life or health
Pen. Code 288	Definition of lewd or lascivious act requiring reporting
W&I Code 15630-15637	Dependent adult abuse reporting

Federal References

	Description
42 USC 11434a	Education for homeless children and youths

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswxhtDVAGoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/slshWYiipXCplusF4dplusvZwaUo1w==

1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/slshPbiWK0vfJqmcXctmE09Ug==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/prbezGVvDZMIh217slshYWslshNg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yeaEvcyAGVPMZLrJ7URvLg==
1312.3-E(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/sslshnCt6VpOSri8VI6KfgsSA==
1312.3-E(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/c4dlX7zRu5aEFKyrBjDTuw==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBBweZztwJEoAGg==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwslshty6slshgQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==
4112.6	Personnel Files - https://simbli.eboardsolutions.com/SU/M40LAY0oKu53G6slshkNResRw==
4119.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/5X9VtPBbvUX8HKgemc87FQ==
4127	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/zCKJ72kFuTsu1AKpq92P6Q==
4127	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/ipNvX4uOMHrcWVVolBfaMyg==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4212.6	Personnel Files - https://simbli.eboardsolutions.com/SU/yajYPdfycolhKwAGbiwDcA==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==
4219.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjymoikfy0Q==
4219.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/ahcuxJKLyI2a73taauKslsh1g==
4227	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/uY1aIWQJB2Pz2db053E69Q==
4227	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/xx3ri1c142G64FEYQaf32g==
4312.6	Personnel Files - https://simbli.eboardsolutions.com/SU/JOMzuMo92wl3pir9pgy7vw==
4317.7	Employment Status Reports - https://simbli.eboardsolutions.com/SU/H9slXUd4r4t4iw5QtpQ2FA==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==
4319.21-E(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/plus2dJcxypusMbpuEa85uQGOjg==
4319.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/FmSui1YNtZ5slshaoHperqN3g==
4327	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/HcZgslsh6Q46plusTUtarouJ78lQ==

4327	Temporary Athletic Team Coaches - https://simbli.eboardsolutions.com/SU/iSGZHpkO4ZcxnNgKjcQ2cA==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1IZtF9Yw==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/dltLbuaoiMc5BEhQMloBhA==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/oEPYvbUhWX7AKplusAR631REg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/xhx7Tjsh193b3y8yZo7fGag==
5142	Safety - https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==
5142	Safety - https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==
5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KiDykg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/plus4aslsh6E34iqm4QEb7K8kslshhg==
5145.11	Questioning And Apprehension By Law Enforcement - https://simbli.eboardsolutions.com/SU/gc85pLNrq76rolQslsh1cffWg==
5145.13	Response To Immigration Enforcement - https://simbli.eboardsolutions.com/SU/HEh3NwOwnaO7a7bHneFvKQ==
5145.13	Response To Immigration Enforcement - https://simbli.eboardsolutions.com/SU/UgwzfixDLKXslshg70vECTKfA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskypusvKvNplustQ==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/ONGKLOvBtB5lLdVF1ljDQw==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/IB9eQpluse1WI2A1Fplush8wrOzw==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/lb0V5XCdhZiGCxQpCccHRg==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CyisA6bEiSg==
6164.2	Guidance/Counseling Services - https://simbli.eboardsolutions.com/SU/58i9plusplus6m08oh04BlqSvK2A==

Regulation 5141.4: Child Abuse Prevention And Reporting

Status: ADOPTED

Original Adopted Date: 11/01/2010 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: Pursuant to Education Code 44691, the California Department of Education (CDE) is required to disseminate information to all school districts regarding the detection and reporting of child abuse and to provide guidance on the responsibilities of mandated reporters. See CDE's web site for information and resources.

Definitions

Child abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child by another person
2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child as defined in Penal Code 11165.2
4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

Child abuse or neglect does not include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of employment (Penal Code 11165.5, 11165.6)

CSBA NOTE: Education Code 44807 provides that physical control of a student under the conditions specified in item #3 below is not subject to criminal prosecution or penalties.

3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be legally privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)
4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain weapons or other dangerous objects within the control of a student (Education Code 49001)
5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by a student (Education Code 49001)

CSBA NOTE: Pursuant to Penal Code 11165.15, the fact that a child is homeless or is classified as an unaccompanied minor, as defined in the federal McKinney-Vento Homeless Assistance Act (42 USC 11434a), is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

6. Homelessness or classification as an unaccompanied minor (Penal Code 11165.15)

CSBA NOTE: The following definition of "mandated reporters" does not list non-school persons (e.g., physicians, clergy members) who are also mandated to report suspected child abuse or neglect and may be revised to reflect additional positions applicable to the district as specified in Penal Code 11165.7.

Penal Code 11165.7 clarifies that volunteers whose duties require direct contact with and supervision of children are not mandated reporters. However, the law encourages volunteers to obtain training in the identification and reporting of child abuse and neglect and to report known or suspected incidents of child abuse or neglect.

Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; athletic coaches, administrators, and directors; licensees, administrators, and employees of a licensed child day care facility; Head Start program teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts

that could cause a reasonable person in a like position, drawing when appropriate on the person's training and experience, to suspect child abuse or neglect. However, reasonable suspicion does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. (Penal Code 11166)

Reportable Offenses

CSBA NOTE: Penal Code 11166 specifies that a mandated reporter has a duty to report when acting in a professional capacity or within the scope of employment. When a mandated reporter is acting in a private capacity, like other private citizens, making a report is discretionary.

A mandated reporter shall make a report using the procedures provided below whenever, acting in a professional capacity or within the scope of employment, the mandated reporter has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11165.9, 11166.05, 11167)

CSBA NOTE: Pursuant to Penal Code 152.3, it is a misdemeanor, with specified exceptions, for a witness to not report a murder, rape, or lewd or lascivious act as defined in Penal Code 288 where the victim is under age 14. Persons who fail to report such offenses may be subject to a fine and/or imprisonment.

Any district employee who reasonably believes to have observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

Responsibility for Reporting

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

CSBA NOTE: Penal Code 11166.01 provides that it is a crime, punishable by a fine and/or imprisonment, for a supervisor or administrator to knowingly inhibit or impede a mandated reporter from making a report.

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

Reporting Procedures

1. Initial Telephone Report

CSBA NOTE: Penal Code 11165.9 specifies the agencies that are authorized to receive reports of suspected child abuse and neglect, as detailed in the following paragraph. The agency must accept a report even if it lacks subject matter or geographical jurisdiction to investigate the case; the agency is then responsible for referring the case to an agency with proper jurisdiction.

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11165.9, 11166)

CSBA NOTE: It is recommended that the district's administrative regulation include the name, address, and phone number of the appropriate agencies in its area to whom reports should be made.

Such reports shall be made to the following agency(ies):

(name of appropriate agency)

(address)

(phone number)

CSBA NOTE: The following paragraph is optional.

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

2. Written Report

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall prepare and either send, fax, or electronically transmit to the appropriate agency a written follow-up report, which includes a completed California Department of Justice (DOJ) form (BCIA 8572). (Penal Code 11166, 11168)

CSBA NOTE: Pursuant to Penal Code 11168, the California Department of Justice (DOJ) form shall be distributed by the police department, sheriff's department, county probation department, or county welfare department as appropriate and is available on the DOJ's web site. It may also be made available at the district office or school site. The following optional paragraph should be revised to reflect district practice.

The DOJ form may be obtained from the district office or other appropriate agencies, such as the police department, sheriff's department, or county probation or welfare department.

CSBA NOTE: Penal Code 11167 requires the mandated reporter's name when reporting known or suspected child abuse. However, the reporter's name and the report are confidential and are only disclosed in limited circumstances provided by law.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location, and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child
- e. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information

The mandated reporter shall make a report even if some of this information is not known or is uncertain to the mandated reporter. (Penal Code 11167)

The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code 11166.05. (Penal Code 11167)

CSBA NOTE: Item #3 below is optional and may be revised to reflect district practice. Pursuant to Penal Code 11166, school districts may establish internal reporting procedures encouraging employees to notify supervisors and administrators of reports that are made. These internal procedures must not inhibit or impede immediate and direct reporting by employees to appropriate agencies, direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances, or require any employee to disclose the employee's identity to the employer.

3. Internal Reporting

The mandated reporter shall not be required to disclose the mandated reporter's identity to a supervisor, the principal, or the Superintendent or designee. (Penal Code 11166)

However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

Training

Within the first six weeks of each school year, or within the first six weeks of employment if hired during the school year, the Superintendent or designee shall provide training on mandated reporting requirements to district employees and persons working on their behalf who are mandated reporters. (Education Code 44691; Penal Code 11165.7)

CSBA NOTE: Education Code 44691 requires school districts to use the online training module provided by the California Department of Social Services (CDSS), available on the CDSS web site. However, if the online training module is not used, the Superintendent or designee is required to report to CDE regarding the training being used in its place.

The Superintendent or designee shall use the online training module provided by the California Department of Social Services (CDSS). (Education Code 44691)

The training shall include, but not necessarily be limited to, training in identification and reporting of child abuse and neglect. In addition, the training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect as required by law is a misdemeanor punishable by imprisonment and/or a fine as specified. (Education Code 44691; Penal Code 11165.7)

CSBA NOTE: Education Code 44691 requires districts to develop a process by which all persons required to receive training must provide proof of receiving the training (e.g., the use of a sign-in sheet, submission of a certificate of completion). The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall obtain and retain proof of each mandated reporter's completion of the training. (Education Code 44691)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 44691 encourages districts to provide training to all school employees, at least once every three years, on the prevention of child abuse on school grounds, by school personnel, or in school-sponsored programs. Pursuant to Education Code 44691, CDE's web site includes best practices for prevention of abuse and links to training resources.

In addition, at least once every three years, school personnel may receive training in the prevention of child abuse, including sexual abuse, on school grounds, by school personnel, or in school-sponsored programs. (Education Code 44691)

Victim Interviews by Social Services

CSBA NOTE: Penal Code 11174.3 authorizes a representative from CDSS or another government agency investigating suspected child abuse or neglect to interview a student during school hours, on school grounds, concerning a report of child abuse or neglect that occurred at home or in an out-of-home care facility. However, there is no clear guidance regarding the procedures to be followed if a social worker is accompanied by law enforcement. In *Greene v. Camreta*, the 9th Circuit Court of Appeals had ruled that, absent exigent circumstances, a social worker and sheriff could not question a student in school without obtaining a warrant, court order, or parent/guardian consent. Subsequently, that ruling was vacated by the U.S. Supreme Court on appeal (*Camreta v. Greene*) since the case was then moot. Districts should proceed with caution and consult legal counsel as necessary.

Whenever CDSS or another government agency is investigating suspected child abuse or neglect that occurred within the child's home or out-of-home care facility, the student may be interviewed by an agency representative during school hours, on school premises. The Superintendent or designee shall give the student the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the student. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform the person of the following requirements prior to the interview: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable the child to be as comfortable as possible.
2. The selected person shall not participate in the interview.

3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

Release of Child to Peace Officer

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. (Education Code 48906)

Parent/Guardian Complaints

CSBA NOTE: Education Code 48987 requires the district, upon request, to disseminate guidelines adopted by CDE advising parents/guardians of procedures for filing child abuse complaints. Such sample guidelines are available on CDE's web site.

Claims against the district for childhood sexual assault are governed by the timelines and procedures specified in Code of Civil Procedure 340.1; see AR 3320 - Claims and Actions Against the District.

Upon request, the Superintendent or designee shall provide parents/guardians with procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those guidelines and/or procedures, an interpreter shall be provided.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee shall also file a report when obligated to do so pursuant to Penal Code 11166 using the procedures described above for mandated reporters.

CSBA NOTE: 5 CCR 3201, as added by Register 2020, No. 21, authorizes parents/guardians of special education students to file a complaint with CDE as provided in the following paragraph. CDE does not investigate allegations of child abuse or neglect, but may investigate conditions that may involve physical safety concerns as such concerns interfere with the provision of a free appropriate public education.

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 3200-3205.

Notifications

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Before beginning employment, any person who will be a mandated reporter by virtue of the person's position shall sign a statement indicating knowledge of the reporting obligations under Penal Code 11166 and compliance with such provisions. The signed statement shall be retained by the Superintendent or designee. (Penal Code 11166.5)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

CSBA NOTE: The remainder of this section is optional and should be deleted by districts that do not provide these additional notifications.

The Superintendent or designee also shall notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of the mandated reporter's

professional capacity or outside the scope of employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that the person knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)

2. If a mandated reporter fails to timely report an incident of known or reasonably suspected child abuse or neglect, the mandated reporter may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166) No employee shall be subject to any sanction by the district for making a report unless it can be shown that the employee knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11166, 11172)

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 References

	Description
5 CCR 4650	Filing complaints with CDE, special education students
Ed. Code 32280-32289	School safety plans
Ed. Code 33195	Heritage schools, mandated reporters
Ed. Code 33308.1	Guidelines on procedure for filing child abuse complaints
Ed. Code 44252	Teacher credentialing
Ed. Code 44691	Information on detection of child abuse
Ed. Code 44807	Duty concerning conduct of students
Ed. Code 48906	Notification of release of student to peace officer
Ed. Code 48987	Child abuse guidelines
Ed. Code 49001	Prohibition of corporal punishment
Ed. Code 51220.5	Parenting skills and education
Ed. Code 51900.6	Sexual abuse and sexual assault awareness and prevention
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
Pen. Code 152.3	Duty to report murder, rape, or lewd or lascivious act
Pen. Code 273a	Willful cruelty or unjustifiable punishment of child; endangering life or health
Pen. Code 288	Definition of lewd or lascivious act requiring reporting
W&I Code 15630-15637	Dependent adult abuse reporting

Federal References

	Description
42 USC 11434a	Education for homeless children and youths

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MQaF8AO8cslshSifGc13QQoEQ==

Cross References

	Description
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhxtDVAGoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==

0470 COVID-19 Mitigation Plan -
<https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==>

1312.1 Complaints Concerning District Employees -
<https://simbli.eboardsolutions.com/SU/slshWYiipXCplusF4dplusvZwaUo1w==>

1312.1 Complaints Concerning District Employees -
<https://simbli.eboardsolutions.com/SU/slshPbiWK0vfJqmcXctmE09Ug==>

1312.3 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/prbezGVvDZMIh217slshYWslshNg==>

1312.3 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/yeaEvcyAGVPMZLrJ7URvLg==>

1312.3-E(1) Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/sslshnCt6VpOSri8VI6KfgsSA==>

1312.3-E(2) Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/c4dIX7zRu5aEFKyrBjDTuw==>

1400 Relations Between Other Governmental Agencies And The Schools -
<https://simbli.eboardsolutions.com/SU/40PU2xBWBBweZztwJEoAGg==>

3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/02vSmBfq4dtrjtwshty6slshgQ==>

3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/DACada6uLadyYOHpluscy3ibw==>

4112.6 Personnel Files -
<https://simbli.eboardsolutions.com/SU/M40LAYOoKu53G6slshkNResRw==>

4119.23 Unauthorized Release Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/5X9VtPBbvUX8HKgemc87FQ==>

4127 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/zCKJ72kFuTsu1AKpq92P6Q==>

4127 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/ipNvX4uOMHrcWVvofBfaMyg==>

4131 Staff Development -
<https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==>

4212.6 Personnel Files -
<https://simbli.eboardsolutions.com/SU/yajYPdfycolhKwAGbiwDcA==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/qoAvx0ewslsh8vcnJXFQ8cSpQ==>

4219.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/CcuHY1ZsGslRjymoikfy0Q==>

4219.23 Unauthorized Release Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/ahcuxJKLyj2a73taauKslsh1g==>

4227 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/uY1aIWQJB2Pz2db053E69Q==>

4227 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/xx3ri1c142G64FEYQAF32g==>

4312.6 Personnel Files -
<https://simbli.eboardsolutions.com/SU/J0MzuMo92wl3pir9pgy7vw==>

4317.7 Employment Status Reports -
<https://simbli.eboardsolutions.com/SU/H9sIXUd4r4t4iw5QtpQ2FA==>

4319.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/cnRIAKbXWIA1vRzoN0L7jQ==>

4319.21-E(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/plus2dJcxplusMbpuEa85uQGOjg==>

4319.23 Unauthorized Release Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/FmSui1YNtZ5slshaoHperqN3g==>

4327 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/HcZgslsh6Q46plusTUaroUJ78IQ==>

4327 Temporary Athletic Team Coaches -
<https://simbli.eboardsolutions.com/SU/iSGZHpkO4ZcxnNgKjcQ2cA==>

5131.7 Weapons And Dangerous Instruments -
<https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==>

5131.7 Weapons And Dangerous Instruments -
<https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1IZtF9Yw==>

5141.52 Suicide Prevention -
<https://simbli.eboardsolutions.com/SU/dltLbuaoiMc5BEhQMloBhA==>

5141.52 Suicide Prevention -
<https://simbli.eboardsolutions.com/SU/oEPYvbUhWX7AKplusAR631REg==>

5141.6 School Health Services -
<https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==>

5141.6 School Health Services -
<https://simbli.eboardsolutions.com/SU/xhx7Tjsh193b3y8yZo7fGag==>

5142 Safety -
<https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==>

5142 Safety -
<https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==>

5144 Discipline -
<https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==>

5144 Discipline -
<https://simbli.eboardsolutions.com/SU/plus4aslsh6E34iqm4QEb7K8kslshhg==>

5145.11 Questioning And Apprehension By Law Enforcement -
<https://simbli.eboardsolutions.com/SU/gc85pLNrq76rolQslsh1cffWg==>

5145.13 Response To Immigration Enforcement -
<https://simbli.eboardsolutions.com/SU/HEh3NwOwnaO7a7bHneFvKQ==>

5145.13 Response To Immigration Enforcement -
<https://simbli.eboardsolutions.com/SU/UgwzfixDLKXslshg70vECTKfA==>

5145.3 Nondiscrimination/Harassment -
<https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskyplusvKvNplustQ==>

5145.3 Nondiscrimination/Harassment -
<https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==>

5145.7 Sexual Harassment -
<https://simbli.eboardsolutions.com/SU/ONGKLOvBtB5lLdVF1ljDQw==>

5145.7 Sexual Harassment -
<https://simbli.eboardsolutions.com/SU/IB9eQpluse1WI2A1Fplush8wrOzw==>

6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/lb0VsXCdhZiGCxQpCccHRg==>

6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CysA6bEiSg==>

6164.2 Guidance/Counseling Services -
<https://simbli.eboardsolutions.com/SU/58i9plusplus6m08oh04BlqSvK2A==>

Policy 5141.52: Suicide Prevention

Status: ADOPTED

Original Adopted Date: 07/01/2009 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: Education Code 215 mandates that the Governing Board of any district serving students in grades K-12 adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide) with specified components. The required components are addressed in the following policy and the accompanying administrative regulation.

The following policy is consistent with the California Department of Education's (CDE) Model Youth Suicide Prevention Policy, which also includes an extensive list of resources to assist in the prevention, intervention, and postvention of student suicide. Districts are encouraged to work closely with their county behavioral health department to identify and access resources at the local level.

The Mental Health Services Oversight and Accountability Commission developed a suicide prevention plan for the state which is published in *Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025*, available on its web site. The plan presents strategic aims, with related goals, objectives, and an implementation schedule. Districts may find the strategic plan useful in learning more about the stigma associated with behavioral health needs, myths and misconceptions about suicidal behavior and its hinderance to prevention efforts, suicidal behavior, risk and protective factors, and best practices in suicide prevention.

The following policy and accompanying administrative regulation should be revised to reflect district practice and the grade levels offered by the district.

The Governing Board recognizes that suicide is a leading cause of death among youth, prevention is a collective effort that requires stakeholder engagement, and school personnel who regularly interact with students are often in a position to recognize the warning signs of suicide and to offer appropriate referral and/or assistance. In an effort to reduce suicidal behavior, its impact on students and families, and other trauma associated with suicide, the Superintendent or designee shall develop measures, strategies, practices, and supports for suicide prevention, intervention, and postvention.

In developing policy and procedures for suicide prevention, intervention, and postvention, the Superintendent or designee shall consult with school and community stakeholders, school-employed mental health professionals, suicide prevention experts, and, in developing policy for grades K-6, the county mental health plan. (Education Code 215)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 215 does not define "school and community stakeholders" or "school-employed mental health professionals" who must be consulted in the development of policy. The following examples are consistent with CSBA and CDE recommendations.

School and community stakeholders and school mental health professionals with whom the Superintendent or designee shall consult may include district and school administrators, school counselors, school psychologists, school social workers, school nurses, other staff, parents/guardians and caregivers, students, local health agencies, mental health professionals, community organizations, law enforcement, legal counsel, and/or the district's risk manager or insurance carrier. The Superintendent or designee may also collaborate with county and/or city governments in an effort to align district policy with any existing community suicide prevention plans.

Measures and strategies for suicide prevention, intervention, and postvention shall include, but are not limited to:

CSBA NOTE: Education Code 215 mandates that the district's policy address any training on suicide awareness and prevention to be provided to teachers of students in all grade levels served by the district. See the accompanying administrative regulation for additional language fulfilling this mandate. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor. Item #1 should be revised to specify the categories of employees who will receive the training.

1. Staff development on suicide awareness and prevention for teachers, interns, school counselors, and others who interact with students, including, as appropriate, substitute teachers, coaches, expanded day learning staff, crossing guards, tutors, and volunteers

CSBA NOTE: Items #2-9 below reflect optional strategies for suicide prevention, intervention, and postvention and may be revised to reflect district practice.

2. Instruction to students in problem-solving, coping, and resiliency skills to promote students' mental, emotional,

and social health and well-being, as well as instruction in recognizing and appropriately responding to warning signs of suicidal intent in others

3. Methods for promoting a positive school climate that enhances students' feelings of connectedness with the school and that is characterized by caring staff and harmonious interrelationships among students
4. The review of materials and resources used in awareness efforts and communications to ensure they align with best practices for safe and effective messaging about suicide
5. The provision of information to parents/guardians and caregivers regarding risk and protective factors, warning signs of suicide, the severity of the suicide problem among youth, the district's suicide prevention curriculum, the district's suicide prevention policy and procedures, basic steps for helping suicidal youth, the importance of communicating with appropriate staff if suicide risk is present or suspected, access to suicide prevention training, and/or school and community resources that can help youth in crisis
6. Encouragement for students to notify appropriate school personnel or other adults when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions
7. Crisis intervention procedures for addressing suicide threats or attempts
8. Counseling and other postvention strategies for helping students, staff, and others cope in the aftermath of a student's suicide

CSBA NOTE: The National Association of School Psychologists recommends that the district and/or school sites create a suicide prevention crisis team to assist in effectively identifying and intervening with students who are at risk of suicidal behavior, including adoption and implementation of policies and procedures. It is recommended that such teams include, at a minimum, administration, mental health staff, and school security personnel. The same crisis intervention team may be established to address broader mental health concerns as described in BP 5141.5 - Mental Health.

9. Establishment of district and/or school-site crisis intervention team(s) to ensure the proper implementation and review of this policy and other district practices related to the emotional and behavioral wellness of students, including, but not limited to, the oversight of mental health and suicide prevention training, collaboration with community mental health organizations, identification of resources and organizations that provide evidence-based treatment, collaboration to build community response, and compliance with Education Code 215

CSBA NOTE: Education Code 215 mandates that the district's policy specifically address the needs of high-risk groups, including, but not limited to, those listed in the following paragraph. See the accompanying administrative regulation for additional language fulfilling this mandate.

As appropriate, these measures and strategies shall specifically address the needs of students who are at high risk of suicide, including, but not limited to, students who are bereaved by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning. (Education Code 215)

CSBA NOTE: The following two paragraphs are for use by districts that serve students in grades K-6.

The Board shall ensure that measures and strategies for students in grades K-6 are age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. (Education Code 215)

If a referral is made for mental health or related services for a student in grade K-6 who is a Medi-Cal beneficiary, the Superintendent or designee shall coordinate and consult with the county mental health plan. (Education Code 215)

District employees shall act only within the authorization and scope of their credential or license. Nothing in this policy shall be construed as authorizing or encouraging district employees to diagnose or treat mental illness unless they are specifically licensed and employed to do so. (Education Code 215)

CSBA NOTE: Education Code 215 requires that the district's student suicide prevention policy be updated at least every five years. Given the severity of the issue and importance of maintaining an up-to-date suicide prevention policy, CSBA and CDE recommend reviewing and updating this policy annually. The following paragraph may be revised to reflect district practice.

The Board shall review, and update as necessary, this policy at least every five years. The Board may, at its discretion, review the policy more frequently. (Education Code 215)

The Superintendent or designee shall periodically review district data pertaining to school climate and reports of suicidal ideation, attempts, or death to identify patterns or trends and make recommendations regarding program development.

The Superintendent or designee shall post this policy on the district's web site, in a prominent location and in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

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 References

	Description
Ed. Code 215	Student suicide prevention policies
Ed. Code 215.5	Student identification cards, inclusion of safety hotlines
Ed. Code 216	Suicide prevention online training programs
Ed. Code 234.6	Bullying and harassment prevention information
Ed. Code 32280-32289.5	Comprehensive safety plan
Ed. Code 49060-49079	Student records
Ed. Code 49602	Confidentiality of personal information received during counseling
Ed. Code 49604	Suicide prevention training for school counselors
Gov. Code 810-996.6	California Tort Claims Act
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
W&I Code 5698	Emotionally disturbed youth; legislative intent
W&I Code 5850-5886	Children's Mental Health Services Act

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
Centers for Disease Control and Prevention Publica	School Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Nat'l Assoc. of School Psychologists Publication	Preventing Suicide: Guidelines for Administrators and Crisis Teams, 2015
U.S. Dept. of Health & Human Services Publication	National Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswxhtDVAGoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBBweZztwJFoAGg==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==

3515	Campus Security - https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrdjnY7VMnle3A==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5131	Conduct - https://simbli.eboardsolutions.com/SU/BqDvGeMHazmNdw0plussj1Jqg==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/e9aCLAAVugE4RIlgfH56ow==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/7QuyX2Gbb9fBJ3snLplus8C6A==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/qrO0yVoZ6z5JdeRRJ7mciA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/Cb0nsSffDeyco8RHO2E56w==
5131.8	Mobile Communication Devices - https://simbli.eboardsolutions.com/SU/6j4F5LvFLQ5MYJCsZAOuyQ==
5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/aCpslshOJw43mEnLBZ0skuplusgw==
5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/62x3PTslshamboV8JHzahM6N7g==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCk0ESbfhPyA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/BEjqLcViXgTslshxL0Wlj31IA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/dL7BIMkMbDjiKpluszH2RQqRw==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/xhx7Tjsh193b3y8yZo7fGag==
5142	Safety - https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==
5142	Safety - https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskyplusvKvNplustQ==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/0NGKL0vBtB5lLdVF1ljDQw==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/IB9eQpluse1WI2A1Fplush8wrOzw==

- 5145.9 Hate-Motivated Behavior -
<https://simbli.eboardsolutions.com/SU/Xc8Ex2tvC4jrVclV6QJr3A==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/lb0VsXCdhZiGCxQpCccHRg==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CyisA6bEiSg==>
- 6164.2 Guidance/Counseling Services -
<https://simbli.eboardsolutions.com/SU/58i9plusplus6m08oh04BlqSvK2A==>

Regulation 5141.52: Suicide Prevention

Status: ADOPTED

Original Adopted Date: 07/01/2009 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: Education Code 215 mandates policy on suicide prevention, intervention, and postvention for grades K-12. See the accompanying Board policy. The following administrative regulation provides additional strategies that fulfill the mandate and may be revised to reflect district practice. Pursuant to Education Code 215, the following regulation should be developed in consultation with school and community stakeholders, school-employed mental health professionals, suicide prevention experts, and, in developing strategies for grades K-6, the county mental health plan.

Examples of suicide prevention strategies are also available in the California Department of Education's (CDE) Model Youth Suicide Prevention Policy, Mental Health Services Oversight and Accountability Commission's (MHSOAC) Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025, the U.S. Department of Health and Human Services publication Preventing Suicide: A Toolkit for High Schools, and resources issued by other state and federal agencies and organizations. For further information about strategies to protect students from bullying, cyberbullying, and other harassment, see BP 5131 - Conduct, BP 5131.2 - Bullying, BP 5145.3 - Nondiscrimination/Harassment, BP/AR 5145.7 - Sexual Harassment, and BP 5145.9 - Hate-Motivated Behavior.

Staff Development

CSBA NOTE: Education Code 215 mandates that the district's policy address any training on suicide awareness and prevention to be provided to teachers of students in all grade levels served by the district. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor.

CDE recommends that employees receive training on the core components of suicide prevention at the beginning of employment, and also receive training each year on risk factors, protective factors, warning signs of suicide, suicide prevention, intervention, referral, and postvention, with a minimum of one hour of general suicide prevention training. The following section should be revised to reflect district practice.

Education Code 216 requires CDE to identify evidence-based online training program(s), aligned with the requirements of Education Code 215, that districts may use to train students and staff.

Education Code 216 also requires CDE, dependent upon funds being appropriated in the annual Budget Act, to provide grants, upon application, to county offices of education for the acquisition of such training programs to disseminate to districts at no cost.

Suicide prevention training shall be provided to teachers, interns, counselors, and others who interact with students, including, as appropriate, substitute teachers, coaches, expanded day learning staff, crossing guards, tutors, and volunteers. The training shall be offered under the direction of a district counselor, psychologist, and/or social worker who has received advanced training specific to suicide and who may collaborate with one or more county or community mental health agencies.

Materials for training shall include how to identify appropriate mental health services at the school site and within the community, and when and how to refer youth and their families to those services. Materials also may include programs that can be completed through self-review of suitable suicide prevention materials. (Education Code 215)

Additionally, staff development shall include research and information related to the following topics:

CSBA NOTE: Education Code 215 mandates that the district's policy specifically address the needs of high-risk groups; see the accompanying Board policy. One strategy to specifically address their needs is to increase staff awareness of the higher rates of suicide among these groups, as provided in item #1 below.

1. The higher risk of suicide among certain groups, including, but not limited to, students who are impacted by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning

CSBA NOTE: Staff development may include training about individual risk factors associated with suicide, as provided in item #2 below. Information about risk factors is available from MHSOAC's Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025, the Centers for Disease Control and

Prevention, American Association of Suicidology, American Foundation for Suicide Prevention, Trevor Project, and other publications, agencies, and organizations.

2. Individual risk factors such as previous suicide attempt(s) or self-harm, history of depression or mental illness, family history of suicide or violence, feelings of isolation, interpersonal conflicts, a recent severe or traumatic stressor or loss, family instability, impulsivity, and other factors
3. Identification of students who may be at risk of suicide, including, but not limited to, warning signs that may indicate depression, emotional distress, or suicidal intentions, such as changes in students' personality or behavior and verbalizations of hopelessness or suicidal intent
4. Protective factors that may help to decrease a student's suicide risk, such as resiliency, problem-solving ability, access to mental health care, and positive connections to family, peers, school, and community
5. Instructional strategies for teaching the suicide prevention curriculum, promoting mental and emotional health, reducing the stigma associated with mental illness, and using safe and effective messaging about suicide
6. The importance of early prevention and intervention in reducing the risk of suicide
7. School and community resources and services, including resources and services that meet the specific needs of high-risk groups
8. Appropriate ways to interact with a student who is demonstrating emotional distress or is suicidal and procedures for intervening when a student attempts, threatens, or discloses the desire to die by suicide, including, but not limited to, appropriate protocols for constant monitoring and supervision of the student, during the time the student is in the school's physical custody, while the immediate referral of the student to medical or mental health services is being processed
9. District procedures for responding after a suicide has occurred
10. Common misconceptions about suicide

The district may provide additional professional development in suicide risk assessment and crisis intervention to district mental health professionals, including, but not limited to, school counselors, psychologists, social workers, and nurses.

Instruction

CSBA NOTE: The state's content standards for health education include voluntary standards pertaining to mental, emotional, and social health at selected elementary and secondary grades and suicide prevention instruction at grade 7 or 8 and in high school.

CDE recommends that the instruction be under the supervision of district-employed mental health professionals following consultation with county and community health agencies, and that it be incorporated into areas of the curriculum in addition to health classes.

The district's comprehensive health education program shall promote the healthy mental, emotional, and social development of students and shall be aligned with the state content standards and curriculum framework. Suicide prevention instruction shall be incorporated into the health education curriculum in an age and developmentally appropriate manner and shall be designed to help students:

1. Identify and analyze warning signs and risk factors associated with suicide, including, but not limited to, understanding how mental health challenges and emotional distress, such as feelings of depression, loss, isolation, inadequacy, and anxiety, can lead to thoughts of suicide
2. Develop coping and resiliency skills for dealing with stress and trauma, and building self-esteem
3. Learn to listen, be honest, share feelings, and get help when communicating with friends who show signs of suicidal intent
4. Identify trusted adults; school resources, including the district's suicide prevention, intervention, and referral

procedures; and/or community crisis intervention resources where youth can get help

5. Develop help-seeking strategies and recognize that there is no stigma associated with seeking services for mental health, substance abuse, and/or suicide prevention
6. Recognize that early prevention and intervention can drastically reduce the risk of suicide

The Superintendent or designee may develop and implement school activities that raise awareness about mental health wellness and suicide prevention.

Student Identification Cards

CSBA NOTE: The following section is for use by districts that serve students in grades 7-12. Education Code 215.5 requires districts that issue or reissue student identification cards to have printed on either side of the card the telephone number of the National Suicide Prevention Lifeline (1-800-273-8255), and allows to have printed on the card the Crisis Text Line (texting HOME to 741741) and/or a local suicide prevention hotline telephone number.

Student identification cards for students in grades 7-12 shall include the National Suicide Prevention Lifeline telephone number and may also include the Crisis Text Line and/or a local suicide prevention hotline telephone number. (Education Code 215.5)

Intervention

CSBA NOTE: Education Code 215 mandates that the district's policy and procedures address suicide intervention. The following section should be revised to reflect district practice. In addition, the district may choose to incorporate crisis intervention strategies in its comprehensive school safety plan adopted pursuant to Education Code 32280-32289.5; see BP/AR 0450 - Comprehensive Safety Plan.

The following paragraph is for use by districts that have formed and trained district and/or school site crisis intervention team(s) to assist with suicide intervention; see the accompanying Board policy. The National Association of School Psychologists (NASP) recommends that crisis intervention teams assign one or more individuals as a "designated reporter" to receive and act upon all reports from teachers, other staff, and students who may be suicidal.

The Superintendent or designee shall provide the name, title, and contact information of the members of the district and/or school crisis intervention team(s) to students, staff, parents/guardians, and caregivers and on school and district web sites. Such notifications shall identify the mental health professional who serves as the crisis intervention team's designated reporter to receive and act upon reports of a student's suicidal intention.

Students shall be encouraged to notify a teacher, principal, counselor, designated reporter, or other adult when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions.

Every statement regarding suicidal intent shall be taken seriously. Whenever a staff member suspects or has knowledge of a student's suicidal intentions based on the student's verbalizations or act of self-harm, the staff member shall promptly notify the principal, school counselor, or designated reporter, who shall implement district intervention protocols as appropriate.

CSBA NOTE: Education Code 49602 generally protects the confidentiality of information of a personal nature disclosed to a school counselor by a student age 12 years or older or by a parent/guardian. However, in certain circumstances, the counselor may disclose such information to avert a clear and present danger to the health, safety, or welfare of the student or others within the school community. Also see BP 6164.2 - Guidance/Counseling Services.

Although any personal information that a student discloses to a school counselor shall generally not be revealed, released, discussed, or referred to with third parties, the counselor may report to the principal or student's parents/guardians when there is reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the student or others within the school community. In addition, the counselor may disclose information of a personal nature to psychotherapists, other health care providers, or the school nurse for the sole purpose of referring the student for treatment, or to report child abuse and neglect as required by Penal Code 11164-11174.3. (Education Code 49602)

Whenever schools establish a peer counseling system to provide support for students, peer counselors shall receive training that includes identification of the warning signs of suicidal behavior and referral of a suicidal student to appropriate adults.

When a suicide attempt or threat is reported, the principal or designee shall ensure student safety by taking the following actions:

1. Immediately securing medical treatment and/or mental health services as necessary
2. Notifying law enforcement and/or other emergency assistance if a suicidal act is being actively threatened
3. Keeping the student under continuous adult supervision and providing comfort to the student until the parent/guardian and/or appropriate support agent or agency can be contacted and has the opportunity to intervene
4. Removing other students from the immediate area as soon as possible

The principal or designee shall document the incident in writing, including the steps that the school took in response to the suicide attempt or threat.

CSBA NOTE: The following paragraph is optional. If a student's parents/guardians refuse or neglect to access treatment for a student who has been identified to be at risk for suicide, the Superintendent or designee shall consider whether a referral to child protective services for child neglect is needed. Pursuant to Penal Code 11164-11174.3, the Child Abuse and Neglect Reporting Act, school employees who are mandated reporters are required to report child abuse or neglect, as defined in law, when they have knowledge of or reasonably suspect that a child is a victim of child abuse or neglect. See BP/AR 5141.4 - Child Abuse Prevention and Reporting.

The Superintendent or designee shall follow up with the parent/guardian and student in a timely manner to provide referrals to appropriate services as needed. If the parent/guardian does not access treatment for the student, the Superintendent or designee may meet with the parent/guardian to identify barriers to treatment and assist the family in providing follow-up care for the student. If follow-up care is still not provided, the Superintendent or designee shall consider whether it is necessary, pursuant to laws for mandated reporters of child neglect, to refer the matter to the local child protective services agency.

For any student returning to school after a mental health crisis, the principal or designee and/or school counselor may meet with the parents/guardians and, if appropriate, with the student to discuss re-entry and appropriate steps to ensure the student's readiness for return to school and determine the need for ongoing support.

Postvention

CSBA NOTE: Education Code 215 mandates that the district's policy and procedures address suicide postvention. The following section should be revised to reflect district practice.

In the event that a student dies by suicide, the Superintendent or designee shall communicate with the student's parents/guardians to offer condolences, assistance, and resources. In accordance with the laws governing confidentiality of student record information, the Superintendent or designee shall consult with the parents/guardians regarding facts that may be divulged to other students, parents/guardians, and staff.

CSBA NOTE: Research has identified an increased risk of suicide among youth who are grieving the suicide of another (so-called "suicide contagion"). The NASP, in its Preventing Suicide: Guidelines for Administrators and Crisis Teams, recommends that memorials should be implemented with care so as not to sensationalize or glamorize suicide and thereby increase the suicide risk to other students. If a memorial is conducted for a student who dies by suicide, the association suggests a living memorial, such as making donations to a local crisis center, participating in an event that raises awareness about suicide prevention, or providing other opportunities for service activities in the school that emphasize the importance of students taking care of each other.

The Superintendent or designee shall implement procedures to address students' and staff's grief and to minimize the risk of imitative suicide or suicide contagion. The Superintendent or designee shall provide students, parents/guardians, and staff with information, counseling, and/or referrals to community agencies as needed.

Students significantly affected by suicide death and those at risk of imitative behavior should be identified and closely monitored. School staff may receive assistance from school counselors or other mental health professionals in determining how to best discuss the suicide or attempted suicide with students.

Any response to media inquiries shall be handled by the district-designated spokesperson who shall not divulge confidential information. The district's response shall not sensationalize suicide and shall focus on the district's postvention plan and available resources.

After any suicide or attempted suicide by a student, the Superintendent or designee shall provide an opportunity for all staff who responded to the incident to debrief, evaluate the effectiveness of the strategies used, and make recommendations for future actions.

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 References

	Description
Ed. Code 215	Student suicide prevention policies
Ed. Code 215.5	Student identification cards, inclusion of safety hotlines
Ed. Code 216	Suicide prevention online training programs
Ed. Code 234.6	Bullying and harassment prevention information
Ed. Code 32280-32289.5	Comprehensive safety plan
Ed. Code 49060-49079	Student records
Ed. Code 49602	Confidentiality of personal information received during counseling
Ed. Code 49604	Suicide prevention training for school counselors
Gov. Code 810-996.6	California Tort Claims Act
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
W&I Code 5698	Emotionally disturbed youth; legislative intent
W&I Code 5850-5886	Children's Mental Health Services Act

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
Centers for Disease Control and Prevention Publica	School Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Nat'l Assoc. of School Psychologists Publication	Preventing Suicide: Guidelines for Administrators and Crisis Teams, 2015
U.S. Dept. of Health & Human Services Publication	National Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswxhtDVAGoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79lj5QQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBBweZztwJFoAGg==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==

3515	Campus Security - https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WlYoQ==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3lLWYdUs8orLaRslshtng==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrdijnY7VMnle3A==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plugsZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5131	Conduct - https://simbli.eboardsolutions.com/SU/BqDvGeMHazmNdw0plussj1Jqg==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/e9aCLAAVugE4RIlgfH56ow==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/7QuyX2Gbb9fBJ3snLplus8C6A==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/qrO0yVoZ6z5JdeRRJ7mciA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/Cb0nsSffDeyco8RHO2E56w==
5131.8	Mobile Communication Devices - https://simbli.eboardsolutions.com/SU/6j4F5LvFLQ5MYJCsZAOuyQ==
5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/aCpslshOJw43mEnLBZ0skuplusgw==
5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/62x3PTslshmbv8JHzahM6N7g==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/BEjqlcViXgTslshxL0Wlj31IA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/dL7BIMkMbDjiKpluszH2RQqRw==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/xhx7Tjsh193b3y8yZo7fGag==
5142	Safety - https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==
5142	Safety - https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskplusvKvNplustQ==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/0NGKLOvBtB5lLdVf1ljDQw==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/IB9eQpluse1WI2A1Eplush8wrOzw==

- 5145.9 Hate-Motivated Behavior -
<https://simbli.eboardsolutions.com/SU/Xc8Ex2tvC4jrVclV6QJr3A==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/lb0VsXCdhZiGCxQpCccHRg==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CyisA6bEiSg==>
- 6164.2 Guidance/Counseling Services -
<https://simbli.eboardsolutions.com/SU/58i9plusplus6m08oh04BlqSvK2A==>

Policy 5142.2: Safe Routes To School Program

Status: ADOPTED

Original Adopted Date: 07/01/2009 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

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

Education Code 44808 provides that districts are not responsible or in any way liable for the conduct or safety of students at any time when students are not on school property unless the district has undertaken to provide transportation for students to and from the school premises, has undertaken a school-sponsored activity off premises, has otherwise specifically assumed responsibility or liability, or has failed to exercise reasonable care under the circumstances. Districts should consult legal counsel and/or the district's insurance provider regarding any potential liability issues. Also see BP/AR 5142 - Safety.

Strategies to promote walking, bicycling, and other forms of active transport to school may be included in the district's school wellness policy, adopted pursuant to 42 USC 1758b, which is required to include goals for physical activity, the district's comprehensive safety plan adopted pursuant to Education Code 32282, and the district's environmental programs. See BP 5030 - Student Wellness, AR 0450 - Comprehensive Safety Plan, and BP 3510 - Green School Operations.

The Governing Board recognizes that walking, bicycling, and other forms of active transport to school increase students' physical activity and reduce vehicle traffic and air pollution in the vicinity of schools. As part of the district's coordinated approach to supporting student wellness and safety and enhancing student learning and achievement, the Superintendent or designee shall develop and implement strategies to establish and encourage safe routes to school program activities.

All students shall have equitable access and opportunity to participate in the district's safe routes to school program.

CSBA NOTE: Districts that have a school wellness council and/or a committee that focuses on environmental efforts may want to identify those groups to assist with the planning and coordination of safe routes to school activities, as described below. Districts may revise the following paragraph to reflect district practice.

The Superintendent or designee may appoint a program coordinator and identify or establish district and/or school site committees to oversee and coordinate related activities.

The Superintendent or designee may collaborate with local public works and public safety departments, transportation agencies, other city and county agencies, school staff, students, parents/guardians and parent organizations, health organizations, community organizations, and/or businesses in the development, implementation, and evaluation of strategies.

Strategies in support of the safe routes to school program shall be based on the grade levels of the students and an assessment of the conditions and needs of each school and the surrounding neighborhoods.

CSBA NOTE: Both state and federal grants are available to support local efforts to increase the number of students walking and bicycling to school and to make it safer for them to do so. Pursuant to 23 USC 133, funding for infrastructure and noninfrastructure projects that support safe routes to schools may be available under the Surface Transportation Block Grant. At the state level, districts may apply for funding through the Active Transportation Program (ATP) (Streets and Highways Code 2380-2385). Funding for both federal and state programs is distributed through the California Department of Transportation's (Caltrans) Division of Local Assistance.

Additionally, the district may collaborate with local agencies and organizations to find funding sources and may seek alternative funding sources for district projects and events that are not covered by a grant.

Streets and Highways Code 2380 expresses legislative intent that disadvantaged communities fully share in the benefits of the ATP, and Streets and Highways Code 2382 requires that the guidelines for the ATP ensure that no less than 25 percent of overall program funds benefit disadvantaged communities, as defined, during each program cycle.

The Superintendent or designee shall explore the availability of grant funds and other sources of funding to support related projects and activities.

CSBA NOTE: The following optional paragraph may be revised to reflect indicators agreed upon by the Governing Board and Superintendent to assess progress toward program goals. To assist with program evaluation, the National Center for Safe Routes to School (NCSRTS) has developed a standardized survey of parents/guardians'

attitudes about allowing their child to walk or bicycle to school as well as student tally forms for recording the modes of travel that students use. NCSRTS recommends that a district use these forms both before and after implementation of a project in order to evaluate changes in attitudes and behaviors. NCSRTS also provides an online data system to enter and view data collected from the parent surveys and student tallies. Caltrans requires the use of these evaluation forms by grant recipients.

The Superintendent or designee shall periodically report to the Board on the implementation of program activities and progress toward program goals. Such reports may include, but are not limited to, levels of participation in promotional and educational activities, survey results of parent/guardian attitudes about allowing their child to walk or bicycle to school, tallies of the numbers of students using various modes of travel to and from school and how these numbers have changed over time, records of student attendance and on-time arrival, and injury data within the school and/or district attendance boundaries.

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 References

	Description
Ed. Code 32283	Comprehensive safety plan
Ed. Code 45450-45451	Crossing guards
Gov. Code 65352.2	Communicating and coordinating of school sites
S&H Code 2333.5	Safe routes to schools construction program
Veh. Code 21200-21212	Operation of bicycles
Veh. Code 21212	Helmet required for bicycle, nonmotorized scooter, skateboard, skates
Veh. Code 21949-21971	Pedestrian rights and duties

Federal References

	Description
23 USC 148	Highway safety improvement program
42 USC 1758b	Local wellness policy

Management Resources References

	Description
CSBA Publication	A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning Initiative School Districts, March 2014
Nat'l Center for Safe Routes to School Publication	Safe Routes to School Guide
National Highway Traffic Safety Admin Publication	Safe Routes to School Toolkit, 2002
Safe Routes to School Natl Partnership Publication	Safe Routes to School 2009 Policy Report: Moving to the Future: Building on Early Achievements, March 2009
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==
3510	Green School Operations - https://simbli.eboardsolutions.com/SU/XgUnplus1ny4xhEqNqzslshy86tw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/WTMeVx90CSgAJSMUK4oVVw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/khjlHlrcgU1781WAmplus7vg==
3541	Transportation Routes And Services - https://simbli.eboardsolutions.com/SU/vO1pBwUSNNxvk7jshCa0TNg==

- 5030 Student Wellness -
<https://simbli.eboardsolutions.com/SU/MVw07Jk6kplusYKHm7oWTJcslshQ==>
- 5142 Safety -
<https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==>
- 5142 Safety -
<https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==>
- 6142.7 Physical Education And Activity -
<https://simbli.eboardsolutions.com/SU/70FXs7kWb81XzYx8PEv4MQ==>
- 6142.7 Physical Education And Activity -
<https://simbli.eboardsolutions.com/SU/g7kPdoAcit7DwZzglEslshwnQ==>

Regulation 5142.2: Safe Routes To School Program

Status: ADOPTED

Original Adopted Date: 07/01/2009 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: The following optional administrative regulation should be revised to reflect district practice. The strategies listed below are organized around the "fundamental E's" recommended for inclusion in local programs by the U.S. Department of Transportation's Federal Highway Administration (NHTSA) and the National Center for Safe Routes to School's online resource guide. NHTSA's Advancing Pedestrian and Bicyclist Safety: A Primer for Highway Safety Professionals states that the most often addressed E's are engineering, education, and enforcement, with encouragement and engagement, evaluation, emerging technologies, emergency response, and equity as other important E's to consider.

District strategies to improve student safety along routes to school and to promote walking, bicycling, and other forms of active transport to school by students may include:

1. Education activities that promote safety and awareness, such as:
 - a. Instructing students about pedestrian, bicycle, and personal safety
 - b. Instructing students about the health, academic, and environmental benefits of walking, bicycling, and other forms of active transport to school
 - c. Offering driver safety information to high school students, parents/guardians, and the community to promote safety around school campuses and routes
2. Encouragement strategies designed to generate interest in active transport to school, such as:
 - a. Organizing or facilitating "walking school buses" and/or "bicycle trains" whereby students walk or bike to school in groups escorted by parents/guardians or other volunteers as needed
 - b. Organizing special events and activities, such as Walk or Bike to School Day, International Walk to School Month, or year-round competitions
 - c. Publicizing the district's efforts in order to build support of parents/guardians and the community, including providing information about the district's safe routes to school program in parent/guardian communications and in any notifications about transportation options
3. Enforcement strategies to deter unsafe behaviors of drivers, pedestrians, and bicyclists, such as:
 - a. Initiating or expanding crossing guard, student safety patrol, and/or parent/guardian safety patrol programs
 - b. Partnering with local law enforcement to help ensure that traffic laws are obeyed in the vicinity of schools and to implement appropriate measures such as placement of speed feedback monitors, ticketing, and/or driver safety campaigns
 - c. Monitoring to ensure that students who bicycle to school or who use skateboards, skates, or nonmotorized scooters wear helmets in accordance with Vehicle Code 21212
4. Engineering strategies that address the design, implementation, operation, and maintenance of traffic control devices or physical measures, such as:
 - a. Working with local government agencies, parents/guardians, school staff, and others as appropriate to gather data about environmental conditions and hazards along routes to school
 - b. Working with local government agencies to make operational and physical improvements that reduce or eliminate hazards, such as reducing motor vehicle traffic speeds in the area and establishing safer and fully accessible crosswalks, walkways, trails, and bikeways
 - c. Assessing the adequacy, accessibility, and safety of bicycle parking at schools and making modifications as needed, such as increasing the number of or relocating bicycle racks and/or equipment storage areas

- d. Considering safe routes to school when making decisions about siting and designing of new schools

CSBA NOTE: See the accompanying Board policy for additional information about program evaluation, including examples of indicators that may be used to measure program implementation and effectiveness.

- 5. Evaluation to assess progress toward program goals, including:
 - a. Gathering and interpreting data based on indicators established by the Superintendent and the Governing Board
 - b. Presenting data to the Board, program partners, and the public
 - c. Recommending program modifications as needed
- 6. Emerging technologies that aid in the prevention and mitigation of accidents
- 7. Emergency response in managing injuries after an accident occurs, including, but not limited to, training staff, crossing guards, student and/or parent/guardian safety patrols, and other volunteers who assist with drop-off and pick-up in emergency procedures
- 8. Equity, such that resources are distributed in a manner that provides safe access and participation in an equitable manner

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 References

	Description
Ed. Code 32283	Comprehensive safety plan
Ed. Code 45450-45451	Crossing guards
Gov. Code 65352.2	Communicating and coordinating of school sites
S&H Code 2333.5	Safe routes to schools construction program
Veh. Code 21200-21212	Operation of bicycles
Veh. Code 21212	Helmet required for bicycle, nonmotorized scooter, skateboard, skates
Veh. Code 21949-21971	Pedestrian rights and duties

Federal References

	Description
23 USC 148	Highway safety improvement program
42 USC 1758b	Local wellness policy

Management Resources References

	Description
CSBA Publication	A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning Initiative School Districts, March 2014
Nat'l Center for Safe Routes to School Publication	Safe Routes to School Guide
National Highway Traffic Safety Admin Publication	Safe Routes to School Toolkit, 2002
Safe Routes to School Natl Partnership Publication	Safe Routes to School 2009 Policy Report: Moving to the Future: Building on Early Achievements, March 2009
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSIfGc13QQoEQ==

Cross References

	Description
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/rcfkHYkie6sGiRXf8UMS2Q==

- 3510 Green School Operations -
<https://simbli.eboardsolutions.com/SU/XgUnplus1ny4xhEqNqzslshy86tw==>
- 3514 Environmental Safety -
<https://simbli.eboardsolutions.com/SU/WTMeVx90CSgAJSMUK4oVVw==>
- 3514 Environmental Safety -
<https://simbli.eboardsolutions.com/SU/khjlHlrcgU1781WAmplus7vg==>
- 3541 Transportation Routes And Services -
<https://simbli.eboardsolutions.com/SU/vO1pBwUSNNxvk7jshCa0TNg==>
- 5030 Student Wellness -
<https://simbli.eboardsolutions.com/SU/MVw07Jk6kplusYKHm7oWTJcslshQ==>
- 5142 Safety -
<https://simbli.eboardsolutions.com/SU/K8OqplusguJHRI8xplussLhZge1Q==>
- 5142 Safety -
<https://simbli.eboardsolutions.com/SU/MUNMMb0Rh8ZZQ3B4sJ45aw==>
- 6142.7 Physical Education And Activity -
<https://simbli.eboardsolutions.com/SU/70EXs7kWb81XzYx8PEv4MQ==>
- 6142.7 Physical Education And Activity -
<https://simbli.eboardsolutions.com/SU/g7kPdoAcit7DwZzglEslshwnQ==>

Policy 5145.12: Search And Seizure

Status: ADOPTED

Original Adopted Date: 03/01/2000 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following optional policy should be modified to reflect district practice. The legality of a search by school officials is complex and depends on the particular circumstances surrounding the search. Districts with specific questions about the legality of a search should consult legal counsel. It is also recommended that the district work with legal counsel to provide staff development for employees conducting searches on behalf of the district.

The following policy and accompanying administrative regulation address circumstances under which searches of individual students may be authorized based on individualized suspicion, and circumstances under which the district may conduct searches without individualized suspicion (e.g., searches of lockers, use metal detectors, or use contraband detection dogs). In *In re Sean A.*, the Court of Appeal upheld a limited search for weapons or drugs without individualized suspicion where a school policy called for students who left campus and returned in the middle of the day to be searched. Districts that wish to develop policy authorizing limited searches for weapons or drugs without individualized suspicion should consult legal counsel.

The Governing Board is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, and only as authorized by law, Board policy, and administrative regulation, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items. School officials shall exercise discretion and use good judgment when conducting searches.

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

Searches Based on Individualized Suspicion

CSBA NOTE: The Fourth Amendment of the U.S. Constitution, which prohibits unreasonable search and seizure, applies to students in the school setting. In *New Jersey v. T.L.O.*, the U.S. Supreme Court held that the legality of a search of a student and/or the student's belongings depends on whether the search is "reasonable." The "reasonableness" of a search depends on two factors: (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction.

In *Redding v. Safford Unified School District*, the U.S. Supreme Court held that a strip search of a student was beyond the scope and overly intrusive in light of the seriousness of the student's alleged violation (i.e., possession of ibuprofen), the lack of immediate danger, and the lack of justification for the search given that the basis of the search was an uncorroborated tip from a fellow student. Although the specific type of search discussed in the court decision is not permissible in California schools pursuant to Education Code 49050, the factors considered by the court are applicable to an analysis as to whether a search is reasonable in scope, as specified below.

School officials may search an individual student, the student's property, or district property under the student's control when there is a reasonable suspicion that the search will uncover evidence that the student is violating the law, Board policy, administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation.

Any search of a student, the student's property, or district property under the student's control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, and student vehicles parked on district property.

CSBA NOTE: In California, searches of personal electronic devices such as cellular phones are subject to the

restrictions imposed by Penal Code 1546.1 in addition to the prohibitions against unreasonable searches and seizures under the Fourth Amendment. Districts with questions about searches of electronic devices such as cellular phones should consult legal counsel.

A student's personal electronic device may be searched only if a school official, in good faith, believes that an emergency involving danger of death or serious physical injury to the student or others requires access to the electronic device information.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees.

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

Searches of Student Lockers and Desks

CSBA NOTE: The ability of school officials to search a locker without individualized suspicion depends on whether, under the circumstances, the student has a reasonable expectation of privacy in the locker. In *In re Cody S.*, the Court of Appeal observed that, while students in California generally have a reasonable expectation of privacy in lockers, that expectation can be limited where school policy makes it clear that lockers are the property of the district and subject to search. Nonetheless, board policy alone will not determine whether a student has a reasonable expectation of privacy in a locker as other circumstances such as staff communication and school practice can also inform the reasonableness of a student's expectation of privacy. Districts with specific questions about whether school officials can search lockers without individualized suspicion should consult legal counsel.

The following optional section is for districts that conduct regular, announced inspections of multiple student lockers and/or desks and should be revised to reflect district practice.

All student lockers and desks are the property of the district. The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.

Use of Metal Detectors

CSBA NOTE: In *In re Latasha W.*, the Court of Appeal upheld a policy of random weapons screening with a handheld metal detector. In addition, an Attorney General opinion (75 Ops.Cal.Atty.Gen. 155 (1992)) states that the reasonable use of metal detectors to deter the presence of weapons in schools is appropriate without individualized suspicion. The Attorney General recommends that the Governing Board make a specific finding identifying the rationale for the use of metal detectors. This finding need not be based on a specific weapons incident, but rather may be based on the need for metal detectors in response to the general harm caused by weapons and the need to provide a safe learning environment.

The following optional paragraph should be modified to reflect the district's rationale for the use of metal detectors.

The Board finds that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also finds that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

CSBA NOTE: The Board should consider where and when metal detectors will be used, such as on a permanent basis at certain sites, rotated among sites, during regular school hours, and/or during special events such as athletic events or dances. To ensure that a metal detector search is reasonable, the Attorney General recommends that an administrative plan be established which contains uniform, established procedures and adequate safeguards against arbitrary and capricious enforcement by school officials. For example, the plan may specify that metal detectors be used at randomly selected schools or that students will be searched on a random basis (e.g., every fifth student entering). The key is to ensure that neutral criteria are applied so that the persons conducting the search do not exercise discretion in determining whether specific persons are targeted or selected for the search. The Attorney General's opinion also recommends that the district's use of metal detectors be incorporated into the district and/or school site safety plan; see BP/AR 0450 - Comprehensive Safety Plan. See the accompanying administrative regulation for other safeguards identified by the Attorney General.

The Superintendent or designee shall use metal detectors as necessary to keep weapons out of schools and help provide a safe learning environment. The Superintendent or designee shall establish a plan to ensure that metal detector searches are conducted in a uniform and consistent manner.

Use of Contraband Detection Dogs

CSBA NOTE: The following optional section is for districts that use trained dogs for random and unannounced inspections for contraband. Prior to instituting such a program, districts wishing to conduct these types of "sniff searches" should make specific findings as to the need for the program and consult legal counsel.

Legally, problems arise when individual persons are sniffed and when students are separated from their belongings so that the belongings can be sniffed. In *B.C. v. Plumas*, the 9th Circuit Court of Appeals concluded that the random and suspicionless dog sniff of a student as he walked by the dog while exiting the room was unreasonable. The court found compelling the fact that there were not specific findings of a serious drug problem at the school that would necessitate the need for the use of the dogs. This court did not rule on whether sniffs of inanimate objects (such as automobiles or lockers) in a school setting are legal. However, courts outside of California (*Zamora v. Pomeroy* and *Horton v. Goose Creek Independent School District*) have indicated that dog sniffing around lockers and cars would probably not be deemed a "search" and thus would be permissible on a random basis without individualized suspicion. If the dog then alerts on a particular car or locker, this alert could then constitute the reasonable suspicion needed in order to conduct a search.

The law is unclear as to whether the district can conduct random and unannounced use of dogs whereby students are asked or required to leave their belongings so that the dog can sniff those belongings. An Attorney General opinion (83 Ops.Cal.Atty.Gen. 257 (2000)) states that, unless exigent circumstances exist (e.g., supporting data of a known drug problem), requiring students to leave their belongings behind in the classroom (e.g., backpacks, purses, jackets) in order to conduct random, unannounced and neutral sniff tests on students' personal belongings would be unreasonable and therefore unconstitutional. Whether the district can ask students to leave their belongings behind is also questionable since such a request might be considered an unconstitutional "seizure." Districts that wish to institute either type of policy should consult legal counsel and have specific data demonstrating the need for such a policy. Although Attorney General opinions are not law, they are generally afforded deference by the courts. See the accompanying administrative regulation.

In an effort to keep the schools free of dangerous contraband, the district may use specially trained, nonaggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or Board policy. The dogs may sniff the air around lockers, desks, or vehicles on district property or at district-sponsored events. Dogs shall not sniff within the close proximity of students or other persons and may not sniff any personal items on those persons without individualized suspicion.

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 References

Description

CA Constitution Article I, Section 28(c)	Right to Safe Schools - https://simbli.eboardsolutions.com/SU/G5dZ2hJx2fjXslshlvWSYTNiQ==
Ed. Code 32280-32289	School safety plans
Ed. Code 35160	Authority of governing boards
Ed. Code 35160.1	Broad authority of school districts
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 49050-49051	Searches by school employees
Ed. Code 49330-49334	Injurious objects
Pen. Code 626.10	Dirks, daggers, knives or razor
Pen. Code 626.9	Firearms

Management Resources References

	Description
Attorney General Opinion	18 Ops.Cal.Atty.Gen. 114 (1951)
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
National Institute of Justice Publication	The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, rev. 2005
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/TRPSJQQAB6pluslceOnc7Uc4Q==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmw==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==
3515.3	District Police/Security Department - https://simbli.eboardsolutions.com/SU/hrfHaysq7yb5Hp9uQVpisQ==
3515.3	District Police/Security Department - https://simbli.eboardsolutions.com/SU/6HHQVhfhPDeGslshxH56YWgAg==
5111	Admission - https://simbli.eboardsolutions.com/SU/b3rDzcewIM4Pc3slsh27eW0jQ==
5111	Admission - https://simbli.eboardsolutions.com/SU/QKKJU21J9RIE2mlKfdauw==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/TiRikLIITwdMqh6yMjqgZA==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/AslshslshF7QOYdaaKpzzl5WuUcA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5125.1	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/Qvflsh9SrGem1eacv9NIakyw==
5125.1	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/2X68kDCK7plusyRP4rLp5HfJw==
5125.1-E(1)	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/YBw6InplUSDYslshRsq834wzZVuQ==
5131	Conduct - https://simbli.eboardsolutions.com/SU/BqDvGeMHazmNdw0plussj1Jqg==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/e9aCLAAVugE4RIlgfH56ow==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/7Quyx2Gbb9fBJ3snLplus8C6A==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/qrO0yVoZ6z5JdeRRJ7mciA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/Cb0nsSffDeyco8RHO2E56w==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/nwg01cCOjoqslshITDnu2XUhw==

5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/MDYc1b9WnEplusvwB1IZtF9Yw==
5131.8	Mobile Communication Devices - https://simbli.eboardsolutions.com/SU/6j4F5LvFLO5MYJCsZAOuyQ==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkkxAGb5DSYDx2g==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==
5145.11	Questioning And Apprehension By Law Enforcement - https://simbli.eboardsolutions.com/SU/gc85pLNrq76rolQslsh1cffWg==
5145.13	Response To Immigration Enforcement - https://simbli.eboardsolutions.com/SU/HEh3NwOwnaO7a7bHneFvKQ==
5145.13	Response To Immigration Enforcement - https://simbli.eboardsolutions.com/SU/UgwzfixDLKXslshg70vECTKfA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskypusvKvNplustQ==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==
5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/2tcsslshBLCbdkBIN3vG0aUDg==
5145.6-E(1)	Parental Notifications - https://simbli.eboardsolutions.com/SU/oaneJkpaDGDKeJWcnkEktg==
5145.9	Hate-Motivated Behavior - https://simbli.eboardsolutions.com/SU/Xc8Ex2tvC4jrVclV6QJr3A==
6163.4	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/2BoUowFwZplusdckW455GevIA==
6163.4-E(1)	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/FBHg2AhplmaTMDCBpEULEg==

Policy 5145.9: Hate-Motivated Behavior

Status: ADOPTED

Original Adopted Date: 06/01/1999 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following optional policy addresses prevention strategies for hate-motivated incidents and should be modified to reflect district practice. Elements of this policy may be integrated into existing district and school site plans, such as the local control and accountability plan, comprehensive school safety plan, and staff development plans.

The Governing Board is committed to providing a respectful, inclusive, and safe learning environment that protects students from discrimination, harassment, intimidation, bullying, or any other type of behavior that is motivated by hate.

CSBA NOTE: The following paragraph reflects the definition of "hate-motivated behavior" specified in the California Department of Education's (CDE) publication *Bullying at School*, expanded to include the categories of protected characteristics identified in state and federal law. Also see BP 0410 - Nondiscrimination in District Programs and Activities and AR 1312.3 - Uniform Complaint Procedures.

Hate-motivated behavior is any behavior intended to cause emotional suffering, physical injury, or property damage through intimidation, harassment, bigoted slurs or epithets, force or threat of force, or vandalism motivated in part or in whole by bias or hostility toward the victim's real or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55.

The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents in a timely manner when they occur.

CSBA NOTE: Hate-motivated behavior, such as an assault, physical threat, bomb threat, destruction of property, graffiti, and vandalism, may constitute a crime under state or federal law. Local law enforcement agencies, human rights commissions, and community organizations throughout the state have established countywide hate crimes networks aimed at responding to and preventing hate crimes.

Districts can identify local hate crime resources through the California Association of Human Relations Organizations, which conducts activities designed to protect human and civil rights by creating a climate of respect and inclusion through networks of collaborations that reduce community tension and build intergroup relationships.

The Superintendent or designee shall collaborate with regional programs and community organizations to promote an environment where diversity is celebrated and hate-motivated behavior is not tolerated. Such collaborative efforts shall focus on the development of effective prevention strategies and response plans, provision of assistance to students affected by hate-motivated behavior, and/or education of students who have perpetrated hate-motivated acts.

The district shall provide students with age-appropriate instruction that:

1. includes the development of social-emotional learning
2. Promotes an understanding, awareness, appreciation, and respect for human rights, human relations, diversity, and acceptance in a multicultural society
3. Explains the harm and dangers of explicit and implicit biases
4. Discourages discriminatory attitudes and practices
5. Provides strategies to manage conflicts constructively

As necessary, the district shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

When appropriate, students who engage in hate-motivated behavior shall be disciplined.

CSBA NOTE: Education Code 218 requires CDE, by July 1, 2021, to develop and/or update resources for use in schools serving students in grades 7-12 for in-service training for the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, and strategies to increase support for LGBTQ students which improve overall school climate. Pursuant to Education Code 218, districts that serve students in grades 7-12 are encouraged to use such resources to provide training at least once every two years to teachers and other certificated staff.

The Superintendent or designee shall provide staff with training that:

1. Promotes an understanding of diversity, equity, and inclusion
2. Discourages the development of discriminatory attitudes and practices
3. Includes social-emotional learning and nondiscriminatory instructional and counseling methods
4. Supports the prevention, recognition, and response to hate-motivated behavior
5. Raises the awareness and sensitivity of staff to potentially prejudicial and discriminatory behavior
6. Includes effective enforcement of rules for appropriate student conduct

Employees who engage in hate-motivated behavior shall be subject to disciplinary action, up to and including dismissal.

Rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident shall be provided to students, staff, and parents/guardians.

This policy shall be posted in a prominent location on the district's web site in a manner that is readily and easily accessible to parents/guardians and students. (Education Code 234.6)

Complaints

CSBA NOTE: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on race or ethnicity, nationality, disability, gender, gender identity, gender expression, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55, or association with a person or group with one or more of these actual or perceived characteristics. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). Pursuant to 5 CCR 4600-4670, uniform complaint procedures (UCP) must be used for this purpose. See BP/AR 1312.3 - Uniform Complaint Procedures. Complaints of sexual harassment that meet the federal definition of sexual harassment in 34 CFR 106.30 must be addressed through the procedures specified in 34 CFR 106.44-106.45; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Although some incidents of harassment, intimidation, or bullying may not fall within the provisions of Education Code 234.1 or federal civil rights regulations, CSBA recommends that districts use the UCP to investigate all incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was victimized because of an actual or perceived membership in a legally protected class. Those incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When an incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process.

Any staff member who is notified that hate-motivated behavior has occurred, observes such behavior, or otherwise becomes aware of an incident shall immediately contact the compliance officer responsible for coordinating the district's response to complaints and complying with state and federal civil rights laws. As appropriate, the staff member shall also contact law enforcement.

A student or parent/guardian who believes the student is a victim of hate-motivated behavior is encouraged to report the incident to a teacher, the principal, the district's compliance officer, or other staff member.

Any complaint of hate-motivated behavior shall be investigated and, if determined to be discriminatory, shall be resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures or other applicable procedure. If, during the investigation, it is determined that a complaint is about nondiscriminatory behavior, the principal or designee shall inform the complainant and shall take all necessary

actions to resolve the complaint.

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 References

	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
Ed. Code 200-262.4	Educational equity; prohibition of discrimination on the basis of sex - https://simbli.eboardsolutions.com/SU/ytTlslshoozWGUAAbNI.6kKkgxQ==
Ed. Code 32282	School safety plans
Ed. Code 48900.3	Suspension for hate violence
Ed. Code 48900.4	Suspension or expulsion for threats or harassment
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes, harassment

Federal References

	Description
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
34 CFR 100.3	Discrimination prohibited
34 CFR 104.7	Designation of responsible employee for Section 504
34 CFR 106.8	Designation of responsible employee and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age

Management Resources References

	Description
CA Office of the Attorney General Publication	California Department of Justice Guidelines for Access to Public Records, October 2017
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/ZCslshsQyeUQjtU04zFuUjn0A==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/UDkYvtCfkeBswhtxDVAGoQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/VWaYem4yu5Qthfa79Jj5QQ==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/688Elyh6uSjvsQkmJqmzww==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/PioBaFXZ2fslshqk3cY9WIYoQ==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/2nN1E4OHjWVeiZemsRvdFA==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/plusSyHU4Mplus35xJslshWzZwKi7Vw==

4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/2NKfwcNusrjY7VMnle3A==
5131	Conduct - https://simbli.eboardsolutions.com/SU/BqDvGeMHazmNdw0plussj1Jqg==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/e9aCLAAVugE4RIlgfH56ow==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/7Quyx2Gbb9fBJ3snLplus8C6A==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YEKoaqsRtro6UOzss2pSgw==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/YvcxnwxTArslshZceBrMplusQ1Gw==
5131.5	Vandalism And Graffiti - https://simbli.eboardsolutions.com/SU/Pg8BraVx5rCwuslshd217eXg==
5136	Gangs - https://simbli.eboardsolutions.com/SU/jxBKUApplus4Ug5kzkNHMjZbfg==
5136	Gangs - https://simbli.eboardsolutions.com/SU/eC45ILxf3slshM58CO5ZDj8GA==
5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/aCpslshOJw43mEnLBZ0skuplusgw==
5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/62x3PTslshmbv8JHzahM6N7g==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/dltLbuaoiMc5BEhQMloBhA==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/oEPYvbUhWX7AKplusAR631REg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/vbmzPZe9XblCvN7KliDykg==
5144	Discipline - https://simbli.eboardsolutions.com/SU/plus4aslsh6E34iqm4QEb7K8kslshhg==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/GiusYy9XkxAGb5DSYDx2g==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/HiUBYjLeXz6s1WHJ8TDRrw==
5145.11	Questioning And Apprehension By Law Enforcement - https://simbli.eboardsolutions.com/SU/gc85pLNrq76roIQslsh1cffWg==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/Ep5IYFTWlyFE8pqSVkGolQ==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/ojEpiagEJzs8r2WXK97XhA==
5145.2	Freedom Of Speech/Expression - https://simbli.eboardsolutions.com/SU/SWmBYCeplusCjtJyKoYrKnS2g==
5145.2	Freedom Of Speech/Expression - https://simbli.eboardsolutions.com/SU/NsVYkyi2rzOyqiqpluswkUDcA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Z44HB2BJzSnpluskyplusvKvNplustQ==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/Re4jHhCwMHoQslsh39zkXGhOA==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/szAfk3ZplusxgTQu5MplusJ268plusA==

5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ohyFzdT21Dqc6nxHmZJ06Q==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/lb0VsXCdhZiGCxQpCccHRg==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CyisA6bEiSg==
6144	Controversial Issues - https://simbli.eboardsolutions.com/SU/maHimRoXnLnd7r1ucO2dWw==
6163.4	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/2BoUowFwZplusdckW455GevIA==
6163.4-E(1)	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/FBHg2AhpImaTMDCBpEULEg==
6164.2	Guidance/Counseling Services - https://simbli.eboardsolutions.com/SU/58i9plusplus6m08oh04BlqSvK2A==
6173.1	Education For Foster Youth - https://simbli.eboardsolutions.com/SU/VleH0lrLDplus84ggVABfeIQ==
6173.1	Education For Foster Youth - https://simbli.eboardsolutions.com/SU/wQVO1mjCLaL244q2tIQplusXg==

Policy 5148: Child Care And Development

Status: ADOPTED

Original Adopted Date: 03/01/2009 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following optional policy may be revised to reflect the type(s) of child care and development programs offered by the district.

The Child Care and Development Services Act (Education Code 8200-8499.10) establishes a variety of child care programs including resource and referral programs (Education Code 8210-8216; 5 CCR 18240-18248), alternative payment programs (Education Code 8220-8227.7; 5 CCR 18220-18231), migrant child care and development programs (Education Code 8230-8233), general child care and development programs (Education Code 8240-8244), and programs for children with special needs (Education Code 8250-8252). Pursuant to Welfare and Institutions Code 10200-10206, as added by SB 98 (Ch. 24, Statutes of 2020), effective July 1, 2021, the state's responsibility for administering these programs will transfer from the California Department of Education (CDE) to the California Department of Social Services (CDSS).

For requirements pertaining to before-school and after-school programs, including the After-School Education and Safety program (Education Code 8482-8484.65) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8), see BP/AR 5148.2 - Before/After School Programs. The California State Preschool Program (Education Code 8235-8239) for children ages 3-4 is addressed in BP/AR 5148.3 - Preschool/Early Childhood Education.

The Governing Board desires to provide child care and development services which meet the developmental needs of children and offer a convenient child care alternative for parents/guardians in the community.

The Board shall enter into a contract with the California Department of Social Services (CDSS) for the provision of child care and development services by the district.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 8499-8499.7 establish county-level child care and development planning councils, with members selected by the County Board of Supervisors and County Superintendent of Schools, to identify local priorities for child care and to develop policies to meet identified needs.

The district shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and supply information about child care options.

CSBA NOTE: Pursuant to 5 CCR 18271, the district must have a written philosophical statement, goals, and objectives, approved by the Governing Board, which address each program component specified in 5 CCR 18272-18281. See the accompanying administrative regulation for required program components.

The Board shall approve for the district's child care and development program a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5 CCR 18271)

Eligibility and Enrollment

CSBA NOTE: Pursuant to 5 CCR 18105, districts contracting to offer child care services are mandated to develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, as provided below. See the accompanying administrative regulation for additional language that fulfills this mandate.

Child care admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the child care center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and health examination requirements. (5 CCR 18105; 22 CCR 101218)

CSBA NOTE: Education Code 8263 and 5 CCR 18106 establish eligibility criteria and priorities for subsidized child care services, as provided below and in the accompanying administrative regulation.

Eligibility is generally limited to children who reside within district boundaries. However, Education Code 8322 and 5 CCR 18107 authorize the Board to enter into an agreement with the boards of other districts to serve children

who reside within those districts. The district may revise the following paragraph to reflect any such agreement approved by the Board.

The Superintendent or designee shall ensure that subsidized child care is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

CSBA NOTE: The following paragraph is optional and may be revised to reflect any district-established priorities for nonsubsidized services.

To the extent that space is available after the enrollment of children who are eligible for subsidized services, priority for admissions shall be given to district students, children of district students, and children of district employees.

Staffing

CSBA NOTE: The Commission on Teacher Credentialing issues permits for child development program directors, site supervisors, master teachers, teachers, associate teachers, and assistants pursuant to criteria established in Education Code 8360-8370 and 5 CCR 80105-80125. The district may request a waiver of the qualification requirements for a site supervisor upon demonstration of a compelling need, in accordance with Education Code 8208(aa) and 5 CCR 18295.

Health and Safety Code 1596.7995 requires that employees and volunteers at a day care center be immunized against influenza, pertussis, and measles, with specified exemptions. In addition, Health and Safety Code 1597.055 requires that teachers in a day care center obtain a tuberculosis clearance. See the accompanying administrative regulation.

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

Facilities

CSBA NOTE: Optional items #1-5 below present examples of methods that may be used to provide facilities for child care services and may be revised to reflect district practice.

Upon recommendation of the Superintendent or designee, the Board may approve any of the following for the provision of child care and development services:

1. The use of existing district facilities that have capacity
2. Renovation or improvement of district facilities to make them suitable for such services
3. Purchase of relocatable child care facilities
4. Inclusion of child care facilities in any new construction
5. Agreement with a public agency or community organization for the use of community facilities

The Superintendent or designee shall ensure that facilities used for child care services meet all applicable health and safety standards. (5 CCR 18020; 22 CCR 101238-101239.2)

Complaints

CSBA NOTE: Pursuant to 5 CCR 4610, the district's uniform complaint procedures should be used to resolve any complaint alleging violation of state or federal laws governing educational programs, including child care and development programs; see BP/AR 1312.3 - Uniform Complaint Procedures. However, 5 CCR 4611, as amended by Register 2020, No. 21, provides that health and safety complaints regarding licensed facilities that operate a child care and development program should be referred to CDSS as described in the following paragraph and BP 1312.3.

Pursuant to 22 CCR 101156, all child care centers must be licensed by CDSS unless exempted by law. See the accompanying administrative regulation for information about child care programs that are exempted from licensure requirements. If all of the district's child care services are license-exempt, the following paragraph may be deleted.

For a licensed child care center, any complaint alleging health and safety violations shall be referred to CDSS. (5 CCR

4611)

Any other alleged violation of state or federal laws governing child care and development programs shall be investigated and resolved using the district's procedures in BP/AR 1312.3 - Uniform Complaint Procedures.

Program Evaluation

CSBA NOTE: 5 CCR 18279-18281 require child care and development programs to be evaluated through the standardized "Desired Results for Children and Families" system. The system requires a program self-evaluation that includes, but is not limited to, a staff assessment, a parent survey, and an environment rating scale.

The Superintendent or designee shall annually conduct an evaluation of the district's child care and development services in accordance with state requirements. The results of the evaluation shall be used to develop an action plan which establishes program goals and objectives for the coming year and addresses any areas identified as needing improvement. (5 CCR 18279-18281)

Policy Reference 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 References

Description

22 CCR 101151-101239.2	General requirements, licensed child care centers - https://simbli.eboardsolutions.com/SU/25FI2slsh36wTFm0vX8xZRbZg==
22 CCR 101212-101231	Continuing requirements - https://simbli.eboardsolutions.com/SU/H5IA5aJVfIBKHey0QgRA4A==
22 CCR 101237-101239.2	Facilities and equipment - https://simbli.eboardsolutions.com/SU/tHhaU35adyWpiEslshHV75I9Q==
5 CCR 18000-18434	Child care and development programs
5 CCR 18012-18122	General requirements
5 CCR 18180-18192	Federal and state migrant programs
5 CCR 18210-18213	Severely handicapped program
5 CCR 18220-18231	Alternative payment program
5 CCR 18240-18248	Resource and referral program
5 CCR 18270-18281	Program quality, accountability
5 CCR 18290-18292	Staffing ratios
5 CCR 18295	Waiver of qualifications for site supervisor
5 CCR 18300-18308	Appeals and dispute resolution
5 CCR 4610-4687	Uniform complaint procedures
5 CCR 80105-80125	Commission on Teacher Credentialing, child care and development permits
Ed. Code 49540-49546	Child care food program
Ed. Code 49570	National School Lunch Act
Ed. Code 56244	Staff development funding
Ed. Code 8200-8209	General provisions for child care and development services
Ed. Code 8200-8499.10	Child Care and Development Services Act
Ed. Code 8210-8216	Resource and referral program
Ed. Code 8220-8226	Alternative payment program
Ed. Code 8230-8233	Migrant child care and development program
Ed. Code 8235-8239	California state preschool program
Ed. Code 8240-8244	General child care and development programs
Ed. Code 8250-8252	Programs for children with special needs

Ed. Code 8263	Eligibility and priorities for subsidized child development services
Ed. Code 8263.3	Disenrollment of families due to reduced funding levels
Ed. Code 8263.4	Enrollment of students ages 11-12 years
Ed. Code 8273-8273.3	Fees
Ed. Code 8278.3	Child Care Facilities Revolving Fund
Ed. Code 8360-8370	Personnel qualifications
Ed. Code 8400-8409	Contracts
Ed. Code 8482-8484.65	After School Education and Safety Program
Ed. Code 8484.7-8484.8	21st Century community learning centers
Ed. Code 8493-8498	Facilities
Ed. Code 8499-8499.7	Local planning councils
H&S Code 120325-120380	Educational and child care facility immunization requirements
H&S Code 1596.70-1596.895	California Child Day Care Act
H&S Code 1596.90-1597.21	Day care centers

Federal References

42 USC 1751-1769j
 42 USC 9831-9852
 42 USC 9858-9858q
 45 CFR 98.2-98.93
 7 CFR 210.1-210.31

Description

National School Lunch Program
 Head Start programs
 Child care and development block grant
 Child care and development fund
 National School Lunch Program

Management Resources References

California Department of Education Publication
 Court Decision
 Website

Description

01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
 A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
 AASA The School Superintendents Association -
<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>

Cross References

1240
 1240
 1312.3
 1312.3
 1312.3-E(1)
 1312.3-E(2)
 1330
 1330

Description

Volunteer Assistance -
<https://simbli.eboardsolutions.com/SU/I0plusjL37x0n3urH8swnxKmg==>
 Volunteer Assistance -
<https://simbli.eboardsolutions.com/SU/cdt3fdn6VaelC4abAUxqvw==>
 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/prbezGVvDZMIh217slshYWslshNg==>
 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/yeaEvcyAGVPMZLrJ7URvLg==>
 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/sslshnCt6VpOSri8VI6KfgsSA==>
 Uniform Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/c4dIX7zRu5aEFKyrBjDTuw==>
 Use Of School Facilities -
<https://simbli.eboardsolutions.com/SU/JdQCE8qb3JfrOuCGj5JNIA==>
 Use Of School Facilities -
<https://simbli.eboardsolutions.com/SU/HGEipQcN6WvJhyuahxQ25g==>

1330-E(1)	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/Og81Kq19lQKoXulcI8Eavw==
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/YMmcsIshjWoaSslsh6KzECvuqyeQ==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBbweZztwJEoAGg==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/wlFsmkJWz6qUWm1aLcnsIshGQ==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/rnHQR0KQwfvZ5zswssIshlPlpQ==
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/plus2hWtx4UYfxQgiHn9uihUQ==
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/ZUQPbna8sEmiXBsUX3fE4g==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/6tlxKXVopxKDqkNjk1SvMw==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/U0uZOiGKpFJEtxEhQI5Y2A==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/sVOSH3N9pcH0slshzYJw5NyYg==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/ZVkjZL5slshHMa9Bc1BojUNwg==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/mzovv01saPjkVplusafF3u50Q==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/7sVGdPK2eNNjYx4wXsAsIshDA==
4112	Appointment And Conditions Of Employment - https://simbli.eboardsolutions.com/SU/tc7eapPAN7iplusi4bLhzJ7pQ==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/WnKyfslshslsheplusBdCnjh3cPabmw==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/di85PBQELjKztGxvgWN8Yg==
4161.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/Dh1EO6E48SBcamjqp7UkTA==
4261.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/zxsF6WPEzdNELnbB7wcrHw==
4361.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/yh2KbB9AqC53yuW4559F7A==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/kbvcwDakcWnkIltf5lplusADg==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/uQp1j6XvLdccM6BE7lqQ8A==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/MVw07Jk6kplusYKHm7oWTJcslshQ==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/TiRIkLIITwdMqh6yMjqgZA==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/AsIshslshF7QOYdaaKpzzl5WuUcA==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/bdrnb1YftG7Z7JqbpRqcZw==

5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/BjH0wtjeJqzslshcK4QtLGdmw==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBCK0ESbfhPyA==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/MtkRRcMGXd4YYZ930yCaslshQ==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/7loDMqwXHxORP9r2unhWVw==
5141.23	Asthma Management - https://simbli.eboardsolutions.com/SU/kwJ9fMI1If6vplus2Cl1O2NfA==
5141.23	Asthma Management - https://simbli.eboardsolutions.com/SU/slshcfBF1usosCyxH1WcEfYsg==
5141.26	Tuberculosis Testing - https://simbli.eboardsolutions.com/SU/6m0mverXqxVplusxzbEAybXBg==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/AgtsHfg5plusdx3gLplusBGD9vRQ==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/bCp2XZkbebzqz9V0PkMFUw==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/YJuBYJlIQSmGsVt59ACZFw==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/3ko2jz9RwqMA3plusCrKVbczA==
5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/HSw0slsh9uaLslshTCeuX3CU74VA==
5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/6pRtZXyNUHP6bl4yEj2t2Q==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/xhx7Tjshl193b3y8yZo7fGag==
5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/2tcsslshBLCbdkBIN3vG0aUDg==
5145.6-E(1)	Parental Notifications - https://simbli.eboardsolutions.com/SU/oaneJkpaDGDKeJWcnkEktg==
5146	Married/Pregnant/Parenting Students - https://simbli.eboardsolutions.com/SU/29e4XDmsfryez3XZShYGqw==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/szAfk3ZplusxgTQu5MplusJ268plusA==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ohyFzdT21Dqc6nxHmZJ06Q==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/rrHn7OSg5E8WppusiNPuucDQ==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/tVVB1slshaVM2xMvslshP8QSTnplusw==

6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/Hc4ByCZKKyWoaP0vJLyIFg==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/NhFGYzoet3ZjIRq56iZuuA==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/70FXs7kWb81XzYx8PEv4MQ==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/g7kPdoAcit7DwZzglEslshwnQ==
6154	Homework/Makeup Work - https://simbli.eboardsolutions.com/SU/2TxvW6GXstUfCLu3alozXg==
6175	Migrant Education Program - https://simbli.eboardsolutions.com/SU/R5H4XbPx1IKJqHfFHZplusUslshg==
6175	Migrant Education Program - https://simbli.eboardsolutions.com/SU/AJvKhVplusAEirRLPOjslshSsFhg==
6184	Continuation Education - https://simbli.eboardsolutions.com/SU/EVdJ8KxYY12f4Wb3cZXabg==
6184	Continuation Education - https://simbli.eboardsolutions.com/SU/YasDfXRappVYuPOy5C59slshA==

Regulation 5148: Child Care And Development

Status: ADOPTED

Original Adopted Date: 07/01/2015 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following administrative regulation reflects provisions generally applicable to programs under the Child Care and Development Services Act (Education Code 8200-8499.7). Such programs include resource and referral programs (Education Code 8210-8216; 5 CCR 18240-18248), alternative payment programs (Education Code 8220-8227.7; 5 CCR 18220-18231), migrant child care and development programs (Education Code 8230-8233), general child care and development programs (Education Code 8240-8244), and programs for children with special needs (Education Code 8250-8252). Pursuant to Welfare and Institutions Code 10200-10206, as added by SB 98 (Ch. 24, Statutes of 2020), effective July 1, 2021, the state's responsibility for administering these programs will transfer from the California Department of Education (CDE) to the California Department of Social Services (CDSS).

The district may revise this regulation to reflect specific requirements for the program(s) it offers. See BP/AR 5148.2 - Before/After School Programs for requirements pertaining to the After-School Education and Safety program (Education Code 8482-8484.65) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8), and BP/AR 5148.3 - Preschool/Early Childhood Education for California State Preschool Program (CSPP) requirements.

The following administrative regulation does not reflect all policy language mandated for each specific program. The district should be careful to include the mandates, if any, applicable to the program(s) it offers. For example, for the alternative payment program, 5 CCR 18221 mandates a written policy statement that includes specified components, including, but not limited to, program purpose, enrollment priorities, reimbursement of providers, and family fee collection. For the resource and referral program, 5 CCR 18244 mandates written referral policies and written complaint procedures.

In addition to the program requirements described below, child care and development programs may be subject to other policies in the district's policy manual (e.g., BP/AR 1240 - Volunteer Assistance, AR 3514.2 - Integrated Pest Management, BP/AR 3550 - Food Service/Child Nutrition Program). Districts should consult legal counsel if they have questions regarding the applicability of other laws to the district's child care and development program.

Licensing

CSBA NOTE: Pursuant to 22 CCR 101156, all child care centers must be licensed by CDSS unless exempted by law. Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from the licensure requirements including, but not limited to, any program that (1) is a "public recreation program" that meets the criteria specified in Health and Safety Code 1596.792, (2) is operated before and/or after school by qualified teachers employed by the district, (3) is a school parenting program or adult education child care program, (4) operates only one day per week for no more than four hours on that day, (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site, (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled, or (7) is a CSPP program operated in a school building that meets specified health and safety requirements. If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

Pursuant to Health and Safety Code 1596.951, CDSS was required to adopt regulations by January 1, 2021 to create a new child care center license including components for serving infant, toddler, preschool, and school-age children; health and safety standards; and enhanced ability to transition children to the next age group. However, the regulations were delayed due to the COVID-19 pandemic. Pursuant to Health and Safety Code 1596.951, all child care centers are required to obtain this license by January 1, 2024.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

Program Components

CSBA NOTE: Items #1-7 and 9 below list components of child care and development programs that are required for all providers pursuant to 5 CCR 18272-18281. The Governing Board is required, pursuant to 5 CCR 18271, to approve goals and objectives addressing each of these program components; see the accompanying Board policy. The district may add components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. The use of a developmental profile reflecting each child's physical, cognitive, social, and emotional development to plan and conduct developmentally and age appropriate activities (Education Code 8203.5; 5 CCR 18272)

Program staff shall complete the developmental profile for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program that complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs
3. A staff development program which complies with 5 CCR 18274
4. Parent/guardian involvement and education that comply with 5 CCR 18275 and include an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress
5. A health and social services component that complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed
6. A community involvement component that complies with 5 CCR 18277

CSBA NOTE: Health and Safety Code 1596.808 establishes beverage standards for licensed child care centers. In addition, centers that receive funding through the Child and Adult Care Food Program (42 USC 1766) must meet federal guidelines for meals, snacks, fluid milk or nutritionally equivalent milk substitutes, and drinking water.

7. As applicable, a nutrition component that ensures children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including meal times (Health and Safety Code 1596.808; 5 CCR 18278; 42 USC 1766)

CSBA NOTE: Item #8 below is optional and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic devices.

8. Programs that promote age-appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

CSBA NOTE: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system. The system requires a program self-evaluation that includes a staff assessment, a parent/guardian survey, and an environment rating scale. Each contractor is required to submit a summary of the self-evaluation findings by June 1 of each year.

9. An annual plan for program evaluation which conforms with the state's system and includes a self-evaluation, parent/guardian survey, and environment rating scale (5 CCR 18270.5, 18279, 18280)

Health and Safety

CSBA NOTE: The following section is for use by districts that offer one or more licensed child care programs. Health and Safety Code 1596.7996 requires licensed child care programs to provide parents/guardians of enrolled children with a flyer developed by CDSS in conjunction with the California Department of Public Health, which contains specified information regarding lead exposure and blood testing. The flyer is available on the CDSS web

site.

When a child enrolls or reenrolls in a licensed child care program, the center shall provide the child's parent/guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests. (Health and Safety Code 1596.7996)

CSBA NOTE: Pursuant to Health and Safety Code 1597.16, a licensed child care center located in a building that was constructed before January 1, 2010 must have its drinking water tested for lead contamination as provided below. A licensed child care center is subject to the temporary suspension of its license if it fails to comply with the requirements to cease using any fountains and faucets where elevated lead levels may exist and to provide potable water.

If a licensed child care center is located in a building that was constructed before January 1, 2010, the center shall have its drinking water tested for lead contamination every five years following an initial test conducted between January 1, 2020 and January 1, 2023. The center shall notify the parents/guardians of enrolled children of the requirement to test a facility's drinking water and of the test results. If notified of elevated lead levels, the center shall immediately make inoperable and cease using the fountains and faucets where elevated lead levels may exist and shall obtain a potable source of water for children and staff at that location. (Health and Safety Code 1597.16)

Staffing

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

All persons employed at a licensed district child care center and all volunteers who provide care and supervision to children at such a center shall be immunized against influenza, pertussis, and measles. If they meet all other requirements for employment or volunteering, as applicable, but need additional time to obtain and provide immunization records, they may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that they have been immunized as required. In addition, employees and volunteers shall receive an influenza vaccination between August 1 and December 1 of each year. A person shall be exempt from these requirements only under any of the following circumstances: (Health and Safety Code 1596.7995)

1. The person submits a written statement from a licensed physician declaring either that immunization is not safe because of the person's physical condition or medical circumstances or that the person has evidence of current immunity to influenza, pertussis, and measles.
2. In the case of the influenza vaccine, the person submits a written declaration declining the vaccination.
3. In the case of the influenza vaccine required during the first year of employment or volunteering, the vaccine is not timely because the person was hired after December 1 of the previous year and before August 1 of the current year.

Documentation of the required immunizations or exemptions from immunization shall be maintained in the employee's personnel file. (Health and Safety Code 1596.7995)

In addition to the above immunization requirements, teachers employed in a licensed child care center shall present evidence of a current tuberculosis clearance and meet other requirements specified in Health and Safety Code 1597.055. (Health and Safety Code 1597.055)

Eligibility and Enrollment

CSBA NOTE: State funding is only available for services to families who meet the criteria for subsidized services as specified in Education Code 8263. The district may also provide services to unsubsidized families provided the district uses other funding sources or the families pay the full cost of services; see section on "Fees and Charges" below.

Pursuant to 5 CCR 18105, districts contracting with CDE to offer child care services are mandated to develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, including criteria designating those children whose needs can be met by the child care center's program and services and the ages of children who will be accepted.

The following section should be revised to reflect the district's contract(s).

The district's subsidized child care and development services may be available to infants and children through 12 years of age and to individuals with disabilities through 21 years of age in accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4; 5 CCR 18089, 18407, 18422)

CSBA NOTE: Pursuant to 5 CCR 18082-18083, the parent/guardian must submit an application for services which contains specified information and documentation. The family's or child's eligibility must be certified by a person designated by the district.

Pursuant to Education Code 8263.1, income eligibility is based on an adjusted monthly family income at or below 85 percent of the state median income, adjusted for family size.

Eligible families shall be those who document both an eligibility basis and a need for care, as follows: (Education Code 8263, 8263.1)

1. The family is eligible for subsidized services on the basis of being a current aid recipient, income eligible, or homeless and/or the family's children are recipients of protective services or have been identified as being or at risk of being abused, neglected, or exploited.
2. The family has a need for child care based on either of the following:
 - a. The unavailability of the parents/guardians to care for and supervise their children for some portion of the day because they are participating in vocational training leading directly to a recognized trade, paraprofession, or profession; are engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate; are employed or seeking employment; are seeking permanent housing for family stability; or are incapacitated
 - b. The child is identified by a legal, medical, or social services agency, the district liaison for homeless students, a Head Start program, or an emergency or transitional shelter as being a recipient of protective services, as being or at risk of being neglected, abused, or exploited, or as being homeless

CSBA NOTE: The following paragraph may be revised to reflect district practice. Unless state funding is allocated to support the centralized eligibility list established in each county pursuant to Education Code 8499.5, such lists will be maintained only if locally funded. In situations where there is no locally funded centralized eligibility list or the district elects not to participate in the local list, the district must establish its own waiting list in accordance with admission priorities pursuant to Education Code 8263 and 5 CCR 18106.

The Superintendent or designee shall consult the county's centralized eligibility list, when available, or shall maintain a district waiting list in accordance with admission priorities. As vacancies occur, applicants shall be contacted in order of their priority. (5 CCR 18106)

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)

Second priority for enrollment shall be given to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

The district shall allow eligible children 11-12 years of age to combine enrollment in a before-school or after-school program with subsidized child care services during the time that the before-school or after-school program does not operate. Children 11-12 years of age, except for children with disabilities, shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before-school or after-school program. (Education Code 8263.4)

CSBA NOTE: The following optional paragraph may be revised to reflect additional enrollment priorities or criteria established by the district, such as priority for district students, children of district students, or children of district employees; see the accompanying Board policy.

After all children eligible for subsidized services have been enrolled, the district may enroll children in accordance

with the priorities established by the Governing Board.

The district's decision to approve or deny services shall be communicated to the parent/guardian through a written Notice of Action mailed or delivered within 30 days from the date the application is signed by the parent/guardian. (5 CCR 18094, 18118)

Upon establishing eligibility for services, a family shall be eligible for and shall receive services for not less than 12 months before having the family's eligibility or need recertified and shall not be required to report changes to income or other changes for at least 12 months. However, a family establishing eligibility on the basis of income shall report any increases in income that exceed the threshold for ongoing income eligibility specified in Education Code 8263.1, and the family's ongoing eligibility shall be recertified at that time. At any time a family may voluntarily report income or other changes, which shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of eligibility before recertification. (Education Code 8263)

The Superintendent or designee shall mail or deliver a Notice of Action to a parent/guardian at least 14 calendar days before any intended change in services, including, but not limited to, an increase or decrease in fees, an increase or decrease in the amount of services, or termination of services, due to any of the following circumstances: (5 CCR 18095, 18119)

1. A determination made during recertification or the update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified
2. Failure of the parent/guardian to document the family's need or eligibility after the district requested such documentation in writing
3. An indication by the parent/guardian that the service is no longer wanted
4. The death of a parent/guardian or child
5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services, documentation used to determine the child's eligibility and need, and copies of all Notices of Action. (5 CCR 18081, 18095)

Fees and Charges

CSBA NOTE: Education Code 8273 requires the state to establish a fee schedule for families using child care services, including families who are eligible for subsidized child care services based on the criteria specified in item #1 in the section "Eligibility and Enrollment" above.

Education Code 8250 and 5 CCR 18110 prohibit districts from assessing fees for children enrolled in a program for severely disabled children or a federally based migrant program. Districts may revise the following paragraph to reflect any such program(s) offered by the district. Districts that offer only programs prohibited from charging fees may delete the following section.

Except when offering a program that is prohibited by law from charging any fees, the Superintendent or designee may charge fees for services according to the state fee schedule, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8250, 8263, 8273, 8273.1, 8447; 5 CCR 18078, 18108-18110)

However, no fee shall be charged to a family that is receiving CalWORKS cash aid, an income-eligible family whose child is enrolled in a part-day California State Preschool Program, or a family whose income level, in relation to family size, is less than the first entry in the fee schedule. (Education Code 8273.1; 5 CCR 18110)

In addition, any family receiving child care on the basis of having a child who is a recipient of child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. (Education Code 8273.1)

CSBA NOTE: Pursuant to Education Code 8273, family fees must be assessed at initial enrollment and reassessed at recertification or when the family data file is updated due to a change in status.

Pursuant to 5 CCR 18114, districts contracting to offer child care services are mandated to adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Education Code 8220-8224.

Fees shall be assessed at initial enrollment and reassessed when a family is recertified or experiences a change in status. Fees shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (Education Code 8273; 5 CCR 18082, 18114, 18115)

CSBA NOTE: The following paragraph is for use by districts that contract to offer child care services and wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees), and may be modified to delete diapers as appropriate for the age of the children served. Education Code 8273.3 mandates that such districts have a written policy which includes parents/guardians in the decision-making process. Pursuant to Education Code 8273.3, the fees cannot exceed \$25 per child in the contract year.

The Superintendent or designee shall establish a process that involves parents/guardians in determining whether to require parents/guardians to provide diapers. This process shall also be used to determine whether and how much to charge parents/guardians for field trip expenses, within the limit specified in law. A child shall not be denied participation in a field trip due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Education Code 8273.3)

Disenrollment

CSBA NOTE: Education Code 8263.3 specifies the order by which families must be disenrolled from child care and development services when funding levels are reduced. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122, but only on the grounds that the factors used to determine the family's disenrollment are incorrect. See section "Rights of Parents/Guardians" below.

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Education Code 8263.3)

1. Families with the highest income in relation to family size shall be disenrolled first.
2. If two or more families have the same income ranking, children without disabilities who have been enrolled in child care services the longest shall be disenrolled first. After all children without disabilities have been disenrolled, children with disabilities shall be disenrolled, with those who have been enrolled in child care services the longest being disenrolled first.
3. Families whose children are receiving child protective services or are at risk of neglect, abuse, or exploitation, regardless of family income, shall be disenrolled last.

Health Examination and Immunizations

CSBA NOTE: Education Code 8263 requires children enrolling in a child care center to obtain a physical examination and evaluation, including immunizations, unless a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. However, with respect to immunization requirements, Health and Safety Code 120335 eliminated the personal beliefs exemption unless the parent/guardian filed a letter or affidavit prior to January 1, 2016 or a licensed physician indicates that a student should be exempted for medical reasons. An exemption granted for personal beliefs is only effective until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12). See BP/AR 5141.31 - Immunizations.

Prior to or within six weeks of enrollment, a child enrolling in a child care center shall obtain a physical examination and evaluation and receive age-appropriate immunizations. (Education Code 8263)

The requirement for a physical examination and evaluation shall be waived if a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. (Education Code 8263)

A child may be exempted from the immunization requirements only if: (Health and Safety Code 120335)

1. A licensed physician indicates that immunization is not safe due to the physical condition or medical circumstances of the child.

CSBA NOTE: Pursuant to Health and Safety Code 120372, a child care center may only accept a medical exemption request that is made by a licensed physician or surgeon on an electronic, standardized, statewide medical exemption certification form developed by the California Department of Public Health and transmitted using the California Immunization Registry. However, Health and Safety Code 120370 requires that a child who has a medical exemption issued prior to January 1, 2020 be allowed to continue enrollment until the next grade span.

A medical exemption shall be submitted using the standardized medical exemption certification form developed by California Department of Public Health and transmitted using the California Immunization Registry. The request shall include, but not be limited to, a description of the medical basis for which the exemption for each individual immunization is sought and whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. A temporary exemption shall not exceed one year. (Health and Safety Code 120372)

2. The parent/guardian submitted a letter or affidavit prior to January 1, 2016 stating that such examination is contrary to the parent/guardian's personal beliefs. An exemption from immunization granted for personal beliefs is effective only until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12).

If there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the child care and development program until it is determined that the child is not suffering from that contagious or infectious disease. (Education Code 8263)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

CSBA NOTE: Pursuant to 5 CCR 18066, districts contracting to offer child care services are mandated to adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

CSBA NOTE: 5 CCR 18066 mandates a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or are at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

CSBA NOTE: 5 CCR 18066 mandates that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice.

Any absence due to a reason other than any of those stated above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the child's parent/guardian. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

Rights of Parents/Guardians

CSBA NOTE: The following two paragraphs are for use by districts that operate one or more licensed child care centers, but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of the rights specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

CSBA NOTE: The remainder of this section is for use by all districts and applies to licensed and unlicensed child care programs.

In addition, if a parent/guardian disagrees with any district action to deny a child's eligibility for subsidized child care services, disenroll the child due to a funding shortage, increase or decrease fees, increase or decrease the amount of services, terminate services, or otherwise change the level of services, the parent/guardian may file a request for a hearing with the

Superintendent or designee within 14 calendar days of the date the Notice of Action was received. Within 10 calendar days of receiving the request for a hearing, the Superintendent or designee shall notify the parent/guardian of the time and place of the hearing, which, to the extent possible, shall be convenient for the parent/guardian. (5 CCR 18120)

The hearing shall be conducted in accordance with the procedures specified in 5 CCR 18120 by a district administrator who is at a staff level higher in authority than the staff person who made the contested decision. Within 10 calendar days after the hearing, the district administrator shall mail or deliver a written decision to the parent/guardian. If the parent/guardian disagrees with the written decision, the parent/guardian may, within 14 calendar days, appeal the decision to the CDE. (5 CCR 18120-18122)

Records

CSBA NOTE: State contracts require the district to submit data on both subsidized and nonsubsidized families served by child care centers. In addition, the district is required to provide monthly reports regarding any families receiving subsidized services during that month.

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required under the state contract.

Policy Reference 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 References

22 CCR 101151-101239.2

22 CCR 101212-101231

22 CCR 101237-101239.2

5 CCR 18000-18434

Description

General requirements, licensed child care centers - <https://simbli.eboardsolutions.com/SU/25FI2slsh36wTFm0vX8xZRbZg==>

Continuing requirements - <https://simbli.eboardsolutions.com/SU/H5IA5aJVfIBKHey0QgRA4A==>

Facilities and equipment - <https://simbli.eboardsolutions.com/SU/tHhaU35adyWpiEslshHV75I9Q==>

Child care and development programs

5 CCR 18012-18122	General requirements
5 CCR 18180-18192	Federal and state migrant programs
5 CCR 18210-18213	Severely handicapped program
5 CCR 18220-18231	Alternative payment program
5 CCR 18240-18248	Resource and referral program
5 CCR 18270-18281	Program quality, accountability
5 CCR 18290-18292	Staffing ratios
5 CCR 18295	Waiver of qualifications for site supervisor
5 CCR 18300-18308	Appeals and dispute resolution
5 CCR 4610-4687	Uniform complaint procedures
5 CCR 80105-80125	Commission on Teacher Credentialing, child care and development permits
Ed. Code 49540-49546	Child care food program
Ed. Code 49570	National School Lunch Act
Ed. Code 56244	Staff development funding
Ed. Code 8200-8209	General provisions for child care and development services
Ed. Code 8200-8499.10	Child Care and Development Services Act
Ed. Code 8210-8216	Resource and referral program
Ed. Code 8220-8226	Alternative payment program
Ed. Code 8230-8233	Migrant child care and development program
Ed. Code 8235-8239	California state preschool program
Ed. Code 8240-8244	General child care and development programs
Ed. Code 8250-8252	Programs for children with special needs
Ed. Code 8263	Eligibility and priorities for subsidized child development services
Ed. Code 8263.3	Disenrollment of families due to reduced funding levels
Ed. Code 8263.4	Enrollment of students ages 11-12 years
Ed. Code 8273-8273.3	Fees
Ed. Code 8278.3	Child Care Facilities Revolving Fund
Ed. Code 8360-8370	Personnel qualifications
Ed. Code 8400-8409	Contracts
Ed. Code 8482-8484.65	After School Education and Safety Program
Ed. Code 8484.7-8484.8	21st Century community learning centers
Ed. Code 8493-8498	Facilities
Ed. Code 8499-8499.7	Local planning councils
H&S Code 120325-120380	Educational and child care facility immunization requirements
H&S Code 1596.70-1596.895	California Child Day Care Act
H&S Code 1596.90-1597.21	Day care centers

Federal References

42 USC 1751-1769j
42 USC 9831-9852
42 USC 9858-9858q
45 CFR 98.2-98.93

Description

National School Lunch Program
Head Start programs
Child care and development block grant
Child care and development fund

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
Court Decision	A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==

Cross References

	Description
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/I0plusjL37x0n3urH8swnxKmg==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/cdt3fdn6VaelC4abAUxqvw==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/prbezGVvDZMIh217slshYWslshNg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yeaEvcyAGVPMZLrJ7URvLg==
1312.3-E(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/sslshnCt6VpOSri8VI6KfgsSA==
1312.3-E(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/c4dlX7zRu5aEFKyrBjDTuw==
1330	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/JdQCE8qb3JfrOuCGj5JNIA==
1330	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/HGEipQcN6WvJhyuahxQ25g==
1330-E(1)	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/Og81Kq19lQKoXulcl8Eavw==
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/YMmcsLshjWoaSslsh6KzECvuqyeQ==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBbweZztwJEoAGg==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/wlFsmkJWz6qUWm1aLcnsLshGQ==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/rnHQr0KQwfvZ5zwsLshlPlpQ==
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/plus2hWtx4UYfxQgiHn9uihUQ==
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/ZUQPbna8sEmiXBsUX3fE4g==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/6tlxKXVopxKDqkNjk1SvMw==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/U0uZOiGKpFJEtxEhQI5Y2A==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/sVOSH3N9pcH0slshzYJw5NyYg==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/ZVkjZL5slshHMa9Bc1BojUNwg==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/mzovv01saPjKVplusafF3u50Q==

3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/7sVGdPK2eNNjYx4wXsAslshDA==
4112	Appointment And Conditions Of Employment - https://simbli.eboardsolutions.com/SU/tc7eapPAN7iplusi4bLhzJ7pQ==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/WnKyfslshslsheplusBdCnjh3cPabmw==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/di85PBQELjKztGxvgWN8Yg==
4161.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/Dh1EO6E48SBcamjqp7UkTA==
4261.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/zxsF6WPEzdNELnbB7wcrHw==
4361.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/yh2KbB9AqC53yuW4559F7A==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/kbvcwDakcWNNkltf5lplusADg==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/uQp1j6XvLdccM6BE7lqQ8A==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/MVw07Jk6kplusYKHm7oWTJcslshQ==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/TiRIkLIITwdMqh6yMjqgZA==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/AslshslshF7QOYdaaKpzzl5WuUcA==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/bdrnb1YftG7Z7JqbpRqcZw==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/BjH0wtjeJqzslshcK4QtLGdmw==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/3mzaqybOuw12DrVkoqauWQ==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/uG8Yk782CeBck0ESbfbPyA==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/MtkRRcMGXd4YYZ930yCaslshQ==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/7loDMqwXHxORP9r2unhWVw==
5141.23	Asthma Management - https://simbli.eboardsolutions.com/SU/kwJ9fMI1lf6vplus2Cl1O2NfA==
5141.23	Asthma Management - https://simbli.eboardsolutions.com/SU/slshcfBF1usosCyxH1WcEfYsg==
5141.26	Tuberculosis Testing - https://simbli.eboardsolutions.com/SU/6m0mverXqxVplusxzbEAybXBg==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/AgtsHfg5pluadx3gLplusBGD9vRQ==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/bCp2XZkbebzqi9V0PKMFUw==

5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/YJuBYJlIQSmGsVt59ACZFw==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/3ko2jz9RwqMA3plusCrKVbczA==
5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/HSw0slsh9uaLslshTCeuX3CU74VA==
5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/6pRtZXyNUHP6bl4yEj2t2Q==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/cQUBkslshYswCdsMdM34YNBpg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/xhx7Tjsh193b3y8yZo7fGag==
5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/2tcsslshBLCbdkBIN3vG0aUDg==
5145.6-E(1)	Parental Notifications - https://simbli.eboardsolutions.com/SU/oaneJkpaDGDKeJWcnkEktg==
5146	Married/Pregnant/Parenting Students - https://simbli.eboardsolutions.com/SU/29e4XDmsfryez3XZShYGqw==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/szAfk3ZplusxgTQu5MplusJ268plusA==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ohyFzdT21Dqc6nxHmZJ06Q==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/rrHn7OSg5E8WppulusiNPuucDQ==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/tVVB1slshaVM2xMvslshP8QSTnplusw==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/Hc4ByCZKKyWoaP0vJLyifg==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/NhFGYzoet3ZjRq56iZuuA==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/70FXs7kWb81XzYx8PEv4MQ==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/g7kPdoAcit7DwZzglEslshwnQ==
6154	Homework/Makeup Work - https://simbli.eboardsolutions.com/SU/2TxvW6GXstUfCLu3alozXg==
6175	Migrant Education Program - https://simbli.eboardsolutions.com/SU/R5H4XbPx1IKJqHfFHZplusUslshg==
6175	Migrant Education Program - https://simbli.eboardsolutions.com/SU/AJvKhVplusAEirLPOjslshSsFhg==
6184	Continuation Education - https://simbli.eboardsolutions.com/SU/EVdJ8KxYY12f4Wb3cZXabg==
6184	Continuation Education - https://simbli.eboardsolutions.com/SU/YasDfXRappVYyPOy5C59slshA==

Policy 6142.5: Environmental Education

Status: ADOPTED

Original Adopted Date: 09/01/1990 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following optional policy may be revised to reflect district practice. Pursuant to Public Resources Code 71300-71304, the Office of Education and the Environment within the Department of Resources Recycling and Recovery (CalRecycle) has developed "environmental principles and concepts," which have been adopted by the State Board of Education. For further information, see the web site of the California Education and the Environment Initiative.

The Governing Board recognizes that schools play a crucial role in educating students about the relationship between humans and the natural world and in preparing them to have the skills, knowledge, and principles needed to solve environmental problems. The Board believes that all students should understand ecological systems and the impact of human action on such systems, including, but not limited to, climate change. The district's environmental education program shall promote environmental literacy and shall prepare students to be stewards of natural resources and live an environmentally sustainable lifestyle.

The district's local control and accountability plan may include local goals and priorities for environmental literacy.

CSBA NOTE: Education Code 51210 requires the adopted course of study for grades 1-6 to include instruction on the relations of persons to their human and natural environment, the wise use of natural resources, and science instruction on the place of humans in the ecological systems. In grades 7-12, Education Code 51220 requires study of the relations of persons to their human and natural environment and science instruction that emphasizes the place of humans in ecological systems. See AR 6143 - Courses of Study.

Pursuant to Education Code 51227.3, the environmental principles and concepts must be integrated into the state content standards, curriculum frameworks, and textbook criteria in the subjects of English language arts, science, history-social science, health, and, to the extent practicable, mathematics. To date, the environmental principles and concepts have only been integrated into the science and history-social science curriculum frameworks.

The following optional paragraph reflects the content of the state-adopted environmental principles and concepts.

The district's environmental education program may be taught across the district curriculum in science, history-social science, English language arts, health, and, to the extent practicable, mathematics. Such instruction shall be aligned with state-adopted standards and curriculum frameworks and may include, but not be limited to, the interactions and interdependence of human societies and natural systems, people's dependence and influence on natural systems, the ways that natural systems change and how people can benefit and influence that change, the fact that there are no boundaries to prevent matter from flowing between systems, and the fact that decisions affecting resources and natural systems are complex and involve many factors.

CSBA NOTE: Pursuant to Public Resources Code 71300-71304, CalRecycle's Office of Education and the Environment has developed environmental education resources, including a model curriculum and successful strategies, to help districts coordinate best practices for environment-based education and environmental science and technology. Further information can be found on the California Education and the Environment Initiative's web site.

The district's program may also provide for active student participation in onsite resource conservation and management programs and the promotion of service learning partnerships. The Superintendent or designee may collaborate with other local educational agencies and/or community-based organizations to enhance the curriculum and learning experiences provided to students.

The Superintendent or designee shall ensure that environment-based learning experiences are made available on an equitable basis and that the environmental literacy curriculum reflects the linguistic, ethnic, and socioeconomic diversity of California.

As appropriate, the Superintendent or designee shall provide professional development for teachers in the development and effective implementation of curriculum and activities inside and outside of the classroom that promote environmental literacy.

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 References

Ed. Code 33541	Science requirements
Ed. Code 51210	Areas of study
Ed. Code 51220	Areas of study, grades 7 to 12
Ed. Code 51795-51797	School instructional gardens
Ed. Code 60041	Ecological systems and their protection
Ed. Code 8700-8707	Environmental education
Ed. Code 8720-8723	Conservation education service
Ed. Code 8760-8773	Outdoor science, conservation, and forestry
Pub. Res. Code 71300-71305	Statewide environmental education

Description**Management Resources References**

Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==
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Description**Cross References**

1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/40PU2xBWBBweZztwJEoAGg==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/wlFsmkJWz6qUWm1aLcnsIshGQ==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/rnHQr0KQwfvZ5zwssIshlPlpQ==
3510	Green School Operations - https://simbli.eboardsolutions.com/SU/XgUnplus1ny4xEqNqzslshy86tw==
3511	Energy And Water Management - https://simbli.eboardsolutions.com/SU/ZncAFkPeOMVplusXQ4yIvnEcg==
3511	Energy And Water Management - https://simbli.eboardsolutions.com/SU/WhhFbJOSLitXLUHS61YKQg==
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/7HOUQPXd2aT7BNWkTOPS1Q==
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/Kb2OmpluspyFKXJEMGTfVuXXg==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/WTMeVx90CSgAJSMUK4oVVw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/khjtHlrcgU1781WAmplu7vg==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/3VU3ILWYdUs8orLaRslshtng==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/MVw07Jk6kplusYKHm7oWTJcslshQ==
6000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/ZT5AVbmMNIHNImXbiDi9Mw==
6011	Academic Standards - https://simbli.eboardsolutions.com/SU/Ak18O7oJ87uplus99GXBbr4lw==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/ryuOcRP3u7zq9yslshXVdLopw==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/4YMw4A1T51uOXn7SMVcQgw==

Description

- 6142.3 Civic Education -
<https://simbli.eboardsolutions.com/SU/kBalhfgFwsMUI9H1VLI5fQ==>
- 6142.4 Service Learning/Community Service Classes -
<https://simbli.eboardsolutions.com/SU/gPCw6uyDOYnuDplusRQijOgmg==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/lb0VsXCdhZiGCxQpCccHRg==>
- 6142.8 Comprehensive Health Education -
<https://simbli.eboardsolutions.com/SU/QWC9I5Wk596CyisA6bEiSg==>
- 6142.93 Science Instruction -
<https://simbli.eboardsolutions.com/SU/m8C2yxGqLaNoe4QgQCCLrQ==>
- 6143 Courses Of Study -
<https://simbli.eboardsolutions.com/SU/PHVSnGvm4q42zwlInFSWFvg==>
- 6143 Courses Of Study -
<https://simbli.eboardsolutions.com/SU/4xCTKNT0O1txLfhojHTafg==>
- 6153 School-Sponsored Trips -
<https://simbli.eboardsolutions.com/SU/ijH39fRWHbhgY7rCAgbVvg==>
- 6153 School-Sponsored Trips -
<https://simbli.eboardsolutions.com/SU/uqQd8bXtjlslh5fmyy7IJpuQ==>

Regulation 6162.51: State Academic Achievement Tests

Status: ADOPTED

Original Adopted Date: 12/01/2013 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

CSBA NOTE: The following administrative regulation reflects requirements of the California Assessment of Student Performance and Progress (CAASPP) (Education Code 60600-60649) and should be revised to reflect the grade levels offered by the district.

The Superintendent or designee shall administer the California Assessment of Student Performance and Progress (CAASPP) to all district students at applicable grade levels, except those students exempted by law.

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

5 CCR 851 clarifies responsibility for the testing of charter school students who attend locally funded charter schools. Pursuant to Education Code 47651, a locally funded charter school is one that receives the state aid portion of its local control funding formula allocation through the district that either authorized the charter or was designated by the State Board of Education (SBE) as the oversight agency, rather than directly from the state.

The students of any charter school that receives its state funding allocation through the district shall be tested in coordination with the testing of district students. In addition, the Superintendent or designee shall arrange for the testing of students in any alternative education program or program conducted off campus, including, but not limited to, non-classroom based programs, continuation schools, independent study, community day schools, county community schools, juvenile court schools, or nonpublic, nonsectarian schools. No test shall be administered in a home or hospital except by a test administrator or test examiner. (5 CCR 851)

CSBA NOTE: The following paragraph is optional. Pursuant to 5 CCR 853, if the district identifies students who are unable to access the computer-based assessments, as required by 5 CCR 857, the district may use a paper and pencil version of the assessment, if available.

On or before July 1 of each year, the Superintendent or designee shall identify any district school(s) with students who are unable to access the computer-based assessment of a CAASPP test and shall report the number of such students to the test contractor. If available, a paper and pencil version of the assessment may be administered to such students. (5 CCR 853, 857)

On or before July 1 of each year, the Superintendent or designee shall designate a district coordinator who shall oversee all matters related to the testing program and serve as the district representative and liaison with the test contractor and the California Department of Education (CDE). The Superintendent or designee shall also designate a coordinator for each test site. The duties of the district and site test coordinators shall include those specified in 5 CCR 857-858. (5 CCR 857-858)

CSBA NOTE: 5 CCR 850 defines "test administrator" as an employee trained to administer the CAASPP achievement tests and "test examiner" as a certificated or licensed employee of a local educational agency trained to administer the California Alternate Assessments (CAA) for students with significant cognitive disabilities.

The Superintendent or designee also shall appoint trained test administrator(s) to administer the CAASPP achievement tests and test examiner(s) to administer the California Alternate Assessments. A test examiner shall be a certificated or licensed employee or contractor of the district or county office of education. (5 CCR 850)

As appropriate, the Superintendent or designee shall assign a specially trained district employee to serve as a test proctor to assist the test examiner; a specially trained district employee, or other person supervised by a district employee, to serve as a translator to translate the test directions into a student's primary language; and a district employee to serve as a scribe to transcribe a student's responses to the format required by the test. A student's parent/guardian or sibling shall not be eligible to be that student's translator or scribe. (5 CCR 850)

All test administrators, test examiners, proctors, translators, scribes, district and site test coordinators, and other persons having access to any of the CAASPP achievement tests and corresponding test materials, assessment technology platform, or tests administered pursuant to Education Code 60640 shall acknowledge the limited purpose of their access to the achievement tests by signing a test security affidavit. In addition, all district and site test coordinators shall sign a test security agreement before receiving any CAASPP achievement tests and corresponding test materials. The test security affidavit and test security agreement shall be those set forth in 5 CCR 859. (5 CCR 850, 859)

Tests Included in the State Assessment System

CSBA NOTE: Pursuant to Education Code 60640 and 5 CCR 851.5, the CAASPP consists of the required assessments listed in items #1-3 below and optional use of a primary language assessment.

Pursuant to Education Code 60640 and 99300-99301, the CAASPP also includes the Early Assessment Program (EAP) designed to assess the college readiness of students in grade 11 in English language arts and/or mathematics. The EAP is included within the summative assessments listed in item #1 below.

The district shall administer the following CAASPP assessments: (Education Code 60640; 5 CCR 851.5)

1. The Smarter Balanced summative assessments for English language arts and mathematics in grades 3-8 and 11, except that:
 - a. Recently arrived English learners, defined pursuant to Education Code 60603 as English learners who are in their first 12 months of attending a school in the United States, shall be exempted from taking the English language arts assessment to the extent allowed by federal law. A recently arrived English learner may be administered the test upon request by the student's parent/guardian.
 - b. Students with disabilities who are unable to participate in the English language arts and mathematics assessments, even with the resources described in the section "Testing Variations" below, shall be provided an alternate test when designated in their individualized education program (IEP), as provided in item #3 below.

CSBA NOTE: Pursuant to Education Code 60640, SBE has determined that the California Science Test (CAST), which is aligned with the Next Generation Science Standards, must be administered in grades 5, 8, and once in grades 10-12. According to the CAASPP Online Test Administration Manual, districts can elect to administer the CAST to students in grade 10 or 11. Students in grade 12 who have not yet met the science testing requirement will automatically be registered to take the CAST. The California Department of Education (CDE) recommends testing high school students when they are enrolled in their last science course. Item #2 may be revised to reflect district practice.

2. The California Science Test (CAST) at grades 5, 8, and once in grades 10-12

However, students with disabilities who are unable to participate in the CAST, even with the resources described in the "Testing Variations" section below, shall be provided an alternate test when designated in their IEP, as provided in item #3 below.

CSBA NOTE: Pursuant to 20 USC 1412 and Education Code 60640, students with disabilities must be included in the CAASPP program with accommodations where necessary (see section on "Testing Variations" below), unless they are exempted by their parents/guardians or are eligible to take an alternate assessment.

3. The California Alternate Assessments (CAA) in English language arts, mathematics, and science for students with significant cognitive disabilities who are unable to take the tests specified in items #1-2 above, even with appropriate accommodations or other testing resources, and who have an IEP that designates the use of alternate tests at the applicable grade levels

CSBA NOTE: The following paragraph is optional. In addition to administering the CAASPP achievement tests described in items #1-3 above to English learners, Education Code 60640 authorizes the district to administer a primary language assessment to English learners. The California Spanish Assessment (CSA) is available to measure competency in Spanish reading/language arts of students in grades 3-8 and high school.

Pursuant to Education Code 60640, the district will receive a per pupil apportionment from the state for administration of the primary language assessment to English learners.

In addition, the Superintendent or designee may administer the California Spanish Assessment (CSA) to English learners. Administration of this test shall not replace the administration of the above tests, administered in English, to English learners. (Education Code 60640)

CSBA NOTE: The following paragraph is optional. Pursuant to Education Code 60640, the district may, at its own expense, administer the CSA to students in a dual immersion program who are not limited English proficient or who are redesignated fluent English proficient. If the district chooses to use the primary language assessment for this purpose, it must enter into an agreement with the state testing contractor, subject to the approval of CDE.

The CSA also may be used to assess students in a dual language immersion program who are not limited English proficient or who are redesignated fluent English proficient, subject to approval by CDE of an agreement between

the district and the state testing contractor. (Education Code 60640)

CSBA NOTE: The following paragraph is optional. Pursuant to Education Code 60642.6, the CAASPP includes optional computer-based interim assessments, available at no cost to districts, that provide teachers and administrators with results that can be used to support teaching and learning and to gauge student progress toward mastery of the skills measured by the summative assessments. The interim assessments were developed for grades 3-8 and high school, but can be administered at any grade level. The timing and frequency of the interim assessments may be determined by the district.

CAASPP also offers formative assessment tools (i.e., assessment tools and processes that are embedded in instruction and used by teachers to receive real-time feedback for purposes of adjusting instruction). Tools for Teachers, available on the Smarter Balanced Assessment Consortium web site, is an online collection of resources aligned with the Common Core State Standards.

Throughout the school year, schools may use Smarter Balanced interim assessments and formative assessment tools at any grade level to provide timely feedback regarding students' progress toward mastery of the skills measured by the summative assessments in English language arts and mathematics and to assist teachers in continually adjusting instruction to improve learning. The Superintendent or designee may determine the timing and frequency of the administration of such assessments.

Exemptions

CSBA NOTE: In addition to the exemption of recently arrived English learners from the English language arts assessment (see item #1a in the section "Tests Included in the State Assessment System" above), Education Code 60615 allows students to be exempted from the CAASPP upon written request from their parents/guardians. 5 CCR 852 requires the district to notify parents/guardians regarding this exemption and provides that any exemption will be granted only for the current school year.

Districts should be aware of the need to maintain a high student participation level on state assessments. Pursuant to 20 USC 6311, states must annually measure the achievement of not less than 95 percent of all students and of each numerically significant subgroup of students.

Each year the Superintendent or designee shall notify parents/guardians of their child's participation in the CAASPP and of the provisions of Education Code 60615 related to exemptions from testing. (5 CCR 852)

Parents/guardians may annually submit to the school a written request to excuse their child from any or all parts of the CAASPP assessments for the school year, and such a request shall be granted by the Superintendent or designee. However, district employees shall not solicit or encourage any exemption request on behalf of any student or group of students. (Education Code 60615; 5 CCR 852)

If a parent/guardian submits an exemption request after testing has begun, any test(s) completed before the request is submitted will be scored and the results reported to the parent/guardian and included in the student's records. (5 CCR 852)

Testing Period

CSBA NOTE: Education Code 60640 requires the SBE to establish testing windows that allow all schools to administer the CAASPP tests at approximately the same time during the instructional year and take into account the need to provide make-up days for students who were absent during testing. Within these testing windows, the district may establish its own testing dates.

The following section should be revised to reflect grade levels offered by the district. In addition, districts that do not maintain any schools on a year-round schedule may revise the following section to delete references to schedules based on tracks.

The Superintendent or designee shall establish testing days for district students within the following available testing windows: (5 CCR 855)

1. Unless otherwise specified in state regulations, assessments shall be administered between the date on which at least 66 percent of the school's or track's annual instructional days have been completed, but no earlier than the second Tuesday in January, and the last day of instruction for the regular annual calendar of the school or track, but no later than July 15 or, if July 15 is not a weekday, then the next weekday following July 15.
2. The CAA for science shall be administered annually beginning on a date in September as determined by CDE through the last day of instruction for the regular annual calendar of the school or track, but no later than July

15 or, if July 15 is not a weekday, then the next weekday following July 15.

CSBA NOTE: Optional item 3 below is for use by districts that have chosen to administer the CSA to English learners as authorized by Education Code 60640; see section "Tests Included in the State Assessment System" above.

3. The CSA shall be administered to English learners within the testing window specified in item #1.

CSBA NOTE: Within the available testing windows specified above, the district may designate specific testing dates that will be used within the district. 5 CCR 855 allows the district to designate one selected testing period for each school or track subject to the conditions specified below. If the district does not designate a selected testing period for a school or track, then the available testing windows specified in items #1-2 above shall be the selected testing period for that school or track.

Within the above testing windows, the Superintendent or designee may designate one testing period for each school or track or, if a school has multiple tracks, a selected testing period for each track. The district shall not exceed six selected testing periods within the available testing window. The testing period shall be no fewer than 25 consecutive instructional days and may be extended up to an additional 10 consecutive instructional days if still within the available testing window set forth in items #1-2 above. (5 CCR 855)

Students who are absent during testing shall be provided an opportunity to take the tests within the testing window.

Testing Variations

CSBA NOTE: The following section describes allowable testing resources that may be used during test administration pursuant to 5 CCR 854.1-854.4. For further information, see CDE's matrix of allowable testing variations, available on its web site.

All CAASPP tests shall be administered in accordance with the manuals or other instructions provided by the test contractor or CDE except that, as appropriate, the following testing variations may be used: (5 CCR 850, 853-854.4)

1. Universal tools specified in 5 CCR 854.1-854.4 may be used with any student.
2. Designated supports specified in 5 CCR 854.1-854.4 may be used with a student for whom the need has been indicated by an educator or team of educators, with parent/guardian and student input as appropriate, or for whom the need is specified in the student's IEP or Section 504 plan.
3. Accommodations specified in 5 CCR 854.1-854.4 may be used with a student with disabilities when included in the student's IEP or Section 504 plan as resources that are regularly used in the classroom for the student's instruction and/or assessment(s). Such accommodations shall be either utilized in the assessment environment or consist of changes in procedures or materials that increase equitable access during the assessment.

CSBA NOTE: 5 CCR 854.9 authorizes the use of "unlisted resources" (i.e., resources that have not been identified as a universal tool, designated support, or accommodation) with students with disabilities, provided that the resource is designated in the student's IEP or Section 504 plan and CDE has approved the use of the resource. Pursuant to 5 CCR 854.9, the district must electronically submit a request to CDE at least 10 business days prior to the first day of CAASPP testing, and the district will receive a response from CDE within four business days of submitting the request. CDE will not approve the use of an unlisted resource that threatens the security of the test or changes the construct being measured, including, but not limited to, those resources specified in 5 CCR 854.9. The district may nevertheless use a disapproved unlisted resource that changes the construct being measured, but the student will not be counted in the participation rate for state and federal accountability measures.

4. An unlisted resource that has not been specifically identified as an approved universal tool, designated support, or accommodation may be used with a student who has an IEP or Section 504 plan provided that the resource is one that is regularly used in the classroom for instruction and/or assessment and CDE has approved its use. At least 10 business days prior to the student's first day of CAASPP testing, the district or school site test coordinator may electronically submit a request to CDE for approval to use that unlisted resource during that year. If CDE determines that the unlisted resource changes the construct being measured, the unlisted resource may nevertheless be used with the student in order to generate an individual score report even though the student shall not be counted in the participation rate for accountability measures. (5 CCR 854.9)

In the administration of the CAA to a student with significant cognitive disabilities, the student may have all instructional supports that may be used in daily instruction or assessment, including language and physical supports, with the exception of any inappropriate test practices listed in test administration manuals. (5 CCR 850, 854.5)

Report of Test Results

CSBA NOTE: Education Code 60641 requires that valid test results for individual students, when available, be reported to the student's parents/guardians, school, and teacher(s). Pursuant to Education Code 60641, it is the Legislature's intent that districts are not precluded from using electronic media formats to provide this report, provided that the format secures the confidentiality of the student and the student's results. In addition, district personnel are not required to prepare individualized explanations of each student's test scores as part of the report described in the following paragraph.

For any state assessments that produce valid individual student results, the Superintendent or designee shall forward or transmit the student's test results to the student's parents/guardians within 20 working days from receipt of the results from the test contractor or, if the district receives the results from the contractor after the last day of instruction for the school year, then within the first 20 working days of the next school year. The report shall include a clear explanation of the purpose of the test, the student's score, and its intended use by the district. An individual student's scores shall also be reported to the school and teacher(s) and shall be included in the student record. (Education Code 60641; 5 CCR 863)

With parent/guardian consent, the Superintendent or designee may release a student's test results to a postsecondary educational institution for the purposes of credit, placement, determination of readiness for college-level coursework, or admission. (Education Code 60641)

The Superintendent or designee shall present districtwide, school-level, and grade-level results to the Governing Board at a regularly scheduled meeting. The Board shall not receive individual students' scores or the relative position of any individual student. (Education Code 49076, 60641)

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 References

	Description
5 CCR 850-864	California Assessment of Student Performance and Progress
Ed. Code 49076	Access to records by persons without written consent or under judicial order
Ed. Code 51041	Evaluation of the educational program
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 56345	Elements of individualized education plan
Ed. Code 60600-60630	Assessment of academic achievement
Ed. Code 60640-60649	California Assessment of Student Performance and Progress
Ed. Code 60660-60663	Electronic learning assessment resources
Ed. Code 99300-99301	Early Assessment Program

Federal References

	Description
20 USC 1412	State eligibility
20 USC 6311	State plan
34 CFR 200.1	Standards and assessment

Management Resources References

	Description
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015
California State University Publication	The Early Assessment Program: Handbook for School Site Leaders, 2008
CSBA Publication	A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning Initiative School Districts, March 2014

Smarter Balanced Assessment Consortium Publication	Usability, Accessibility, and Accommodations Guidelines, September 2013
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
Website	AASA The School Superintendents Association - https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSfGc13QQoEQ==
Website	U.S. Department of Education, Office for Civil Rights - https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==

Cross References

Description

0420	School Plans/Site Councils - https://simbli.eboardsolutions.com/SU/y2etzW7EMUINAHBiplusg41ug==
0420	School Plans/Site Councils - https://simbli.eboardsolutions.com/SU/hplus8WSuNclQslshslshgkyiBLHm9w==
0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/Vor2u28QPpGzyvpP7DTLgg==
0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/b1CnzSNHsSlshvWKspylUzba==
0420.41	Charter School Oversight - https://simbli.eboardsolutions.com/SU/d5CF9FNsppX6bdZjuCDj1A==
0420.41-E(1)	Charter School Oversight - https://simbli.eboardsolutions.com/SU/UHlexeE5Meci8G5XMTyiRA==
0420.42	Charter School Renewal - https://simbli.eboardsolutions.com/SU/zbc9g1fXJplusjaadGKbIA6g==
0440	District Technology Plan - https://simbli.eboardsolutions.com/SU/MIZD9lpjBgVuoslshLa1cu2Hw==
0440	District Technology Plan - https://simbli.eboardsolutions.com/SU/UCGjUfXnePltplusvFIRPzKLA==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/slshjUFZbVef5BBjip1DcYhXQ==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/AbJplus59EQ3nHIDGZrxoDK9A==
0500	Accountability - https://simbli.eboardsolutions.com/SU/dm48YxjLasn10a0o8AvNrQ==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/LrVolqfclly2xu1JwALPIA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/dsYh5z2XBXhfJlxF1rZnYA==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/mzovv01saPjKVplusafF3u50Q==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/7sVGdPK2eNNjYx4wXsAslshDA==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/WnKyfslshslsheplusBdCnjh3cPabmw==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/di85PBQELjKztGxvgWN8Yg==
4113	Assignment - https://simbli.eboardsolutions.com/SU/OnQtHDIY0fb2z3wtY1kSTA==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BPSbjgh2i5nrmbVplus56xVnQ==

4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/BG9EuCP8VTbfGhTsfjhBuA==
4115	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/FawCisRbOpFkZj4coDQ4Hg==
4315	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/e8hplhjDkVClpD124RDfng==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/2DzaKVWFWggWZZZGWyC2Mg==
5125	Student Records - https://simbli.eboardsolutions.com/SU/JxC2ft15x5plusgZxKXeg0HtA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/L51V9QG6l2pAYplusLmNZnZoQ==
5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/2tcsslshBLCbdkBIN3vG0aUDg==
5145.6-E(1)	Parental Notifications - https://simbli.eboardsolutions.com/SU/oaneJkpaDGDKeJWcnkEktg==
6000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/ZT5AVbmMNIHNmXbiDi9Mw==
6011	Academic Standards - https://simbli.eboardsolutions.com/SU/Ak18O7oJ87uplus99GXBbr4lw==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/Hc4ByCZKkyWoaP0vJLyifg==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/NhFGYzoet3ZjIRq56iZuuA==
6111	School Calendar - https://simbli.eboardsolutions.com/SU/CrMCwixg5Jcne9VrQ2e91Q==
6120	Response To Instruction And Intervention - https://simbli.eboardsolutions.com/SU/qslishOQGdO5MdDr3q09lZgGw==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/ryuOcrP3u7zq9yslshXVdLopw==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/4YMw4A1T51uOXn7SMVcQgw==
6142.91	Reading/Language Arts Instruction - https://simbli.eboardsolutions.com/SU/rhph6LWknC9QeekshvsYbQ==
6142.92	Mathematics Instruction - https://simbli.eboardsolutions.com/SU/v0Wd7O3DaMJMdo0xbWdaRQ==
6142.93	Science Instruction - https://simbli.eboardsolutions.com/SU/m8C2yxGqLaNoe4QgQCclRQ==
6142.94	History-Social Science Instruction - https://simbli.eboardsolutions.com/SU/yaPTasD6ETfEWYHfzCT4pg==
6146.4	Differential Graduation And Competency Standards For Students With Disabilities - https://simbli.eboardsolutions.com/SU/72IFT1wS66AdVHMVSNidgQ==
6152	Class Assignment - https://simbli.eboardsolutions.com/SU/tw2RE7OlekXPx8lcsishJRKLA==
6152.1	Placement In Mathematics Courses - https://simbli.eboardsolutions.com/SU/WqKz8wsTG5rtl5rEh2a7VA==
6152.1	Placement In Mathematics Courses - https://simbli.eboardsolutions.com/SU/gXbslshFb4qQFpluszjFHeRsZNw==
6158	Independent Study - https://simbli.eboardsolutions.com/SU/lxHJi53HMf46pOy5a3MYMA==

6158 Independent Study -
<https://simbli.eboardsolutions.com/SU/otU2cHyWY5W9dkKouteTsw==>

6159 Individualized Education Program -
<https://simbli.eboardsolutions.com/SU/Aao3rehuknhtW2Bm83plhQ==>

6159 Individualized Education Program -
<https://simbli.eboardsolutions.com/SU/KPBCpluswPfrpluscKh1V3hslshjZag==>

6159.2 Nonpublic, Nonsectarian School And Agency Services For Special Education -
<https://simbli.eboardsolutions.com/SU/YWurxKK0PF4mJYPYFWBxA==>

6159.2 Nonpublic, Nonsectarian School And Agency Services For Special Education -
<https://simbli.eboardsolutions.com/SU/gurAb4oYXtBrMxugGdsdA==>

6162.5 Student Assessment -
<https://simbli.eboardsolutions.com/SU/0H9KaRlqaQGdfsWrYQfUPg==>

6162.54 Test Integrity/Test Preparation -
<https://simbli.eboardsolutions.com/SU/9nLvTQdHBTz1EHsutvGk4A==>

6164.4 Identification And Evaluation Of Individuals For Special Education -
<https://simbli.eboardsolutions.com/SU/u3Bz16BHYPplusYhho3ltoNqwQ==>

6164.4 Identification And Evaluation Of Individuals For Special Education -
<https://simbli.eboardsolutions.com/SU/XT1K4QF9WJDPTohcgjosfg==>

6164.6 Identification And Education Under Section 504 -
<https://simbli.eboardsolutions.com/SU/2qK2deL5COZXjplpslshMCMTQ==>

6164.6 Identification And Education Under Section 504 -
<https://simbli.eboardsolutions.com/SU/NOkPAA4iKMPEtshH9x0jP8Q==>

6171 Title I Programs -
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6171 Title I Programs -
<https://simbli.eboardsolutions.com/SU/ttAZM0AslshK0eeqmSKUanG4A==>

6172 Gifted And Talented Student Program -
<https://simbli.eboardsolutions.com/SU/XLYTrZi0DyEGw6fQplusVjOslshQ==>

6172 Gifted And Talented Student Program -
<https://simbli.eboardsolutions.com/SU/FLelpluspPplus8geaPCplusplusUkeWYg==>

6173 Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/o1HJzQlfWhwyEgJiewvKJA==>

6173 Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/z6OnwG68JmS58A2LhOslshGNQ==>

6173-E(1) Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/eJoZD7caqeZLQxmOYWpVrQ==>

6173-E(2) Education For Homeless Children -
<https://simbli.eboardsolutions.com/SU/Z5jemm0G8094U9SYFvJ9rA==>

6173.1 Education For Foster Youth -
<https://simbli.eboardsolutions.com/SU/VleH0lrlLDplus84ggVABfelQ==>

6173.1 Education For Foster Youth -
<https://simbli.eboardsolutions.com/SU/wQVO1mjCLaL244q2tlQplusXg==>

6173.2 Education Of Children Of Military Families -
<https://simbli.eboardsolutions.com/SU/CUexaHcW9m9YAj4fZ2CzQ==>

6173.2 Education Of Children Of Military Families -
<https://simbli.eboardsolutions.com/SU/aK0lbSVtNSXBvKE1iqsJvw==>

6174 Education For English Learners -
<https://simbli.eboardsolutions.com/SU/JGcQ2M5qyuyeHJX6XslshMwRg==>

6174 Education For English Learners -
<https://simbli.eboardsolutions.com/SU/eRsEplusvznslshVHeYPtHiF4VJA==>

- 6175 Migrant Education Program -
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- 6175 Migrant Education Program -
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- 6178 Career Technical Education -
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- 6178 Career Technical Education -
<https://simbli.eboardsolutions.com/SU/vL3wj9CVkzu5JqEnnplusRA==>
- 6178.2 Regional Occupational Center/Program -
<https://simbli.eboardsolutions.com/SU/E9jqc9hrffA4fc4MYkSjCw==>
- 6179 Supplemental Instruction -
<https://simbli.eboardsolutions.com/SU/rXxvYIDAtxLf0pA3TnGOzQ==>
- 6181 Alternative Schools/Programs Of Choice -
<https://simbli.eboardsolutions.com/SU/Cb0SFikRVJoV7krNnBNg4w==>
- 6181 Alternative Schools/Programs Of Choice -
<https://simbli.eboardsolutions.com/SU/L6BBcEkZ3AxXqDhslshxV6l2g==>
- 6183 Home And Hospital Instruction -
<https://simbli.eboardsolutions.com/SU/3aAX8BjXGckn7wfpqBb3yA==>
- 6184 Continuation Education -
<https://simbli.eboardsolutions.com/SU/EVdJ8KxYY12f4Wb3cZXabg==>
- 6184 Continuation Education -
<https://simbli.eboardsolutions.com/SU/YasDfXRappVYyPOy5C59slshA==>
- 6185 Community Day School -
<https://simbli.eboardsolutions.com/SU/A7PhisUSLMqSUFnn9C8DjQ==>
- 6185 Community Day School -
<https://simbli.eboardsolutions.com/SU/OSITpH8AsbuhZslsh82WzIFtw==>
- 6190 Evaluation Of The Instructional Program -
<https://simbli.eboardsolutions.com/SU/1cD3fts7fPTBoWslshQbspBEg==>
- 9000 Role Of The Board -
<https://simbli.eboardsolutions.com/SU/QFqplusOPXxgCAfOhwNmH9Y3w==>
- 9321-E(1) Closed Session -
<https://simbli.eboardsolutions.com/SU/gDbI4mPzLvPdRfydzRfLbA==>
- 9321-E(2) Closed Session -
<https://simbli.eboardsolutions.com/SU/OfLLA8RnW7O9S5mslshplusOztpQ==>
- 9321 Closed Session -
<https://simbli.eboardsolutions.com/SU/MED8gQ28ECms7s6Sceapmg==>

Policy 7211: Developer Fees

Status: ADOPTED

Original Adopted Date: 02/01/1999 | Last Revised Date: 06/01/2021 | Last Reviewed Date: 06/01/2021

CSBA NOTE: The following policy is optional. Education Code 17620-17621 and Government Code 65995-65995.7 provide authority for three levels of developer fees that may be levied by school districts on residential, commercial, and industrial construction to mitigate the impact of increased enrollment on school facilities. Before imposing developer fees, the Governing Board must conduct a fee justification study and comply with other requirements.

Due to the failure of state bond measure Proposition 13 in March 2020, Government Code 65997 is operative until a new state bond measure is approved. Pursuant to Government Code 65997, public agencies may, on the basis of the inadequacy of school facilities, deny or refuse to approve a "legislative" act but may not require the payment of a fee in excess of that imposed pursuant to Government Code 65995-65995.7. Courts have distinguished between legislative acts (e.g., zoning ordinances) and adjudicative acts (e.g., subdivision approvals, variances, and conditional use permits). Districts with specific questions as to the operation of Government Code 65997 should consult legal counsel.

Level 1 fees, the basic mitigation fee, may be applied to residential, commercial, and industrial construction projects and must be within the limits established by law and the State Allocation Board (SAB). Level 2 fees apply only to residential construction, and the amount of the fee varies across districts as determined through a school facilities needs analysis. Level 3 fees may be double the amount of Level 2 fees, but may only be collected when SAB certifies that state funds for new school facility construction are not available.

Pursuant to Education Code 17620, some types of construction may be exempted from the developer fee. Districts should consult with legal counsel as appropriate.

In order to finance the construction or reconstruction of school facilities needed to accommodate increased student enrollment resulting from new development, the Governing Board may establish, levy, and collect developer fees on residential, commercial, and industrial construction within the district, subject to restrictions specified by law.

Level 1 Fees: Residential, Commercial and Industrial Construction

CSBA NOTE: For Level 1 fees, Government Code 65995 establishes a maximum amount of fee, which is adjusted for inflation by SAB every two years. In order to levy developer fees, Government Code 66001 requires that the Board conduct a fee justification study which demonstrates a reasonable relationship between residential, commercial, and industrial development in the district and the need for additional school facilities. Pursuant to Government Code 66001 and 66016, before increasing any fee, districts must update their fee justification study and satisfy the notice and hearing requirements, as specified below. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

Courts have held that boards must be able to show that a valid method was used in the fee justification study. In *Summerhill Winchester LLC v. Campbell Union School District*, the Court of Appeal concluded that a fee justification study must include the following three factors: (1) a projection of the total amount of new housing expected to be built within the district; (2) an estimate of how many students will be generated by the new development; and (3) an estimate of what it will cost to provide the necessary school facilities for the new students. Districts with questions about the adequacy of a fee justification study or how to analyze the reasonableness of a fee in relation to the type of development at issue should consult legal counsel.

Before taking action to establish, increase, or impose Level 1 developer fees, the Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the facility or portion of the facility attributed to the development for which the fee is imposed

Before levying developer fees or prior to increasing an existing fee, the Board shall hold a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting at which a public hearing shall occur, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition, and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016)

The resolution shall set forth:

1. The purpose of the fee, the use to which the fee is to be put, and the public improvement(s) that the fee will be used to finance (Government Code 66001, 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. If the district requires payment of the fee at a time earlier than the date of final inspection or the issuance of a certificate of occupancy, the district's determination of either of the following conditions which allow collection of the fees at the time when building permits are issued: (Government Code 66007)
 - a. That the fees are to reimburse the district for previous expenditures
 - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated, and the district has adopted a proposed construction schedule or plan

In the case of any commercial or industrial development, the Board shall make findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse. The Board shall also conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. (Education Code 17621)

Level 2 Fees: Residential Construction

CSBA NOTE: Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district makes a timely application to SAB for new construction funding under the State Facilities Program for which it is determined to be eligible by SAB pursuant to Education Code 17071.10-17071.76. In addition, Government Code 65995.5 requires the district to adopt a facility needs analysis and to satisfy the cost-saving/revenue-enhancing measures described in that section. The facility needs analysis required by Government Code 65995.6 serves a similar purpose as the fee justification study detailed above, but specifies different legal requirements, as well as a different approval and adoption process. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

In order to impose Level 2 residential construction fees within the limits of Government Code 65995.5, the Board shall, in addition to fulfilling the requirements above for Level 1 fees, undertake the following: (Government Code 65995.5)

1. Make a timely application to the State Allocation Board (SAB) for new construction funding and be determined to be eligible by SAB
2. Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6
3. Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D)

CSBA NOTE: Government Code 65352.2 requires the district to provide the notification specified below to the

appropriate city or county planning agency. If the parties decide to meet, Government Code 65352.2 specifies issues that may be considered at the meeting.

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

This analysis shall not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

Not less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

CSBA NOTE: Government Code 65995.6 provides that if the school facility needs analysis is revised during the period of public review or at the public hearing, the approval process must recommence (e.g., another 30-day review period, published notice, etc.).

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

CSBA NOTE: Pursuant to Government Code 65995.6, the fees take effect immediately upon adoption and are effective for only one year. After one year, the district must repeat the adoption process.

The fees authorized by Government Code 65995.6 and 65995.7 shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Fees: Residential Construction

CSBA NOTE: Government Code 65995.7 authorizes a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 funding) upon a determination by SAB that state funds are no longer available.

When Level 3 fees are authorized by law and the district qualifies for Level 2 fees pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to Government Code 65995.7.

The notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 fees shall be the same as the requirements for Level 2 fees as specified above. (Government Code 65995.7)

Use of Fees

CSBA NOTE: Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the following notice.

The Board shall review information provided by the Superintendent or designee pursuant to Government Code 66006 regarding each account or fund into which developer fees have been deposited, at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-

day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. (Government Code 66006)

CSBA NOTE: Pursuant to Government Code 66001, if the following findings are not made every five years as required, the district may be required to refund the moneys in the account or fund pursuant to Government Code 66006(e).

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: (Government Code 66001)

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

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 References

2 CCR 1859-1859.199

Description

Leroy F. Greene School Facilities Act - <https://simbli.eboardsolutions.com/SU/nuvesXH7Af1QqDOmGTa3wA==>

Ed. Code 17070.10-17077.10

Leroy F. Greene School Facilities Act of 1998 - <https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==>

Ed. Code 17582

District deferred maintenance fund

Ed. Code 17620-17626

Levies against development projects by school districts

Gov. Code 6061

One time notice

Gov. Code 6066

Two weeks' notice

Gov. Code 65352.2

Communicating and coordinating of school sites

Gov. Code 65864-65869.5

Development agreements

Gov. Code 65995-65998

Developer fees

Gov. Code 66000-66008

Fees for development projects

Gov. Code 66016-66018.5

Development project fees

Gov. Code 66020-66025

Protests and audits

Management Resources References

Description

Court Decision

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website

AASA The School Superintendents Association - <https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSfGc13QQoEQ==>

Cross References

Description

7131

Relations With Local Agencies - <https://simbli.eboardsolutions.com/SU/gSigOkghdaSslsh4y0plusplusMrM4w==>

7210

Facilities Financing - <https://simbli.eboardsolutions.com/SU/cRK5YTNBgZiwCEWOUi9cdQ==>

7212

Mello-Roos Districts - <https://simbli.eboardsolutions.com/SU/EE9jFvxqFAHQXxgo8klHrg==>

Regulation 7211: Developer Fees

Status: ADOPTED

Original Adopted Date: 02/01/1999 | **Last Revised Date:** 06/01/2021 | **Last Reviewed Date:** 06/01/2021

The district shall send a copy of any Governing Board resolution adopting or increasing Level 1, 2, or 3 developer fees to the city and county, accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee. (Education Code 17621)

In cooperation with local governmental agencies issuing building permits, the Superintendent or designee shall establish a means by which all of the following shall be accomplished:

1. The project applicant shall receive a written statement of the amount of the fees and notification that the 90-day approval period during which the applicant may protest has begun. (Government Code 66020)

CSBA NOTE: Item #2 below is optional and is intended to ensure that the district will have evidence that the required notification was delivered.

2. The Superintendent or designee shall receive and retain acknowledgment that the above notification was received.
3. Before a permit is issued and upon the payment of the applicable fee or requirement, the Board shall immediately certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Education Code 17620)

Developer fees shall be deposited, invested, accounted for, and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public and the Board the following information for the fiscal year: (Government Code 66006)

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001. (Government Code 66001)

Appeals Process for Protests by Developers

The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)

Developers of residential, commercial, and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board which shall include:
 - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest
 - b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. The developer may file an action to attack, review, set aside, void, or annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice. (Government Code 66020)

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 References

2 CCR 1859-1859.199

Ed. Code 17070.10-17077.10

Ed. Code 17582

Ed. Code 17620-17626

Gov. Code 6061

Gov. Code 6066

Gov. Code 65352.2

Gov. Code 65864-65869.5

Gov. Code 65995-65998

Gov. Code 66000-66008

Gov. Code 66016-66018.5

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Cross References

Description

- 7131 Relations With Local Agencies -
<https://simbli.eboardsolutions.com/SU/gSigOkghdaSslsh4y0plusplusMrM4w==>
- 7210 Facilities Financing -
<https://simbli.eboardsolutions.com/SU/cRK5YTNBgZiwCEWOUi9cdQ==>
- 7212 Mello-Roos Districts -
<https://simbli.eboardsolutions.com/SU/EE9jFvxqFAHQXxgo8klHrg==>