

FREEDOM OF SPEECH/EXPRESSION

Note: The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution guarantee freedom of speech and of the press. Court cases and California law have addressed the application of these principles in a school setting and have established parameters for student expression. The following policy addresses rights and limitations related to student expression in a variety of forms, and includes off-campus as well as on-campus student expression.

Education Code 48907 **mandates** district to establish a written "publications code" related to students' rights to freedom of speech and of the press; these written rules and regulations must include reasonable provisions for the time, place and manner in which free expression may take place within the district's jurisdiction. See AR 5145.2 for further language implementing this mandate. It is recommended that districts consult legal counsel when adopting and implementing policy related to freedom of speech/expression.

The Board of Trustees believes that free inquiry and exchange of ideas are essential parts of a democratic education. The Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

(cf. 6144 - Controversial Issues)

On-Campus Expression

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on district or school Internet web sites and on-line media shall generally be afforded the same protections as print media.

(cf. 1113 - District and School Web Sites)

Note: Numerous court cases have found that the First Amendment rights of public school students 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 the landmark Hazelwood School District v. Kuhlmeier case, the U.S. Supreme Court ruled that when a school has not, by policy or practice, opened a school-sponsored activity for unrestricted use by students, a school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." In California, Education Code 48907 grants students broad rights of freedom of press and provides that student content can be restrained only when it is obscene, libelous or slanderous or incites students to commit unlawful acts, violate school rules or substantially disrupt school operations.

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950 and other applicable state and federal laws.

FREEDOM OF SPEECH/EXPRESSION (continued)

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous or slanderous. Students also are prohibited from making any expressions that so incite students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

The use of "fighting words" or epithets is prohibited if the speech is abusive and insulting rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

Note: The right of school administrators to exercise "prior restraint" (e.g., censorship) of materials is generally limited to those instances in which administrators believe that the material violates the law, such as defamatory material or material that might subject the district to liability (Leeb v. DeLong).

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of the material violates the law. (Education Code 48907)

The Superintendent or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats or intimidation unless constitutionally protected. (Education Code 48950)

(cf. 5137 - Positive School Climate)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process: Students with Disabilities)

Off-Campus Expression

Note: Courts have generally found that schools may impose discipline for conduct that occurs outside the school only when the off-campus conduct poses a direct threat to the safety, welfare or discipline of other students or staff. In Lavine v. Blaine School District, the Ninth Circuit U.S. Court of Appeals applied Tinker v. Des Moines School District to conclude that a school district in Washington was justified in expelling a student whose off-campus poetry, when considered in the totality of other relevant factors, indicated he might pose a danger to himself or others. Similar standards have been applied with regard to students' off-campus Internet web sites. A Pennsylvania state court in J.S. v. Bethlehem Area School District upheld the right of a school district to discipline a student for making threatening comments on a personal web site against a particular teacher. The federal courts in Beussink v. Woodland R-IV School District and Emmett v. Kirkland School District No. 415 confirmed that student off-campus Internet speech merits First Amendment protection and that disliking the content of a student's speech critical of the schools and staff is not an acceptable justification for limiting student speech.

Since this area of law is unclear and constantly evolving, it is strongly recommended that districts consult with legal counsel when developing policy and prior to applying discipline for off-campus Internet speech.

FREEDOM OF SPEECH/EXPRESSION (continued)

A student shall be subject to discipline for off campus expression, including expression on off campus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program. The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

Legal Reference:

EDUCATION CODE

48907 *Exercise of free expression; rules and regulations*

48950 *Speech and other communication*

51520 *Prohibited solicitations on school premises*

CALIFORNIA CONSTITUTION

Article I, Section 2 Freedom of speech and expression

U.S. CONSTITUTION

Amendment 1 Freedom of speech and expression

COURT CASES

Lavine v. Blaine School District, (2001) 257 F.3d 981

Emmett v. Kirkland School District No. 415, (2000) 92 F.Supp. 2d 1088

J.S. v. Bethlehem Area School District, (2000) 757 A.2d 412 (Pa. Commw. 2000)

Beussink v. Woodland R-IV School District, (1998) 30 F. Supp. 2d 1175 (E.D. Mo. 1998)

Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530

Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562

Leeb v. DeLong, (1988) 198 Cal.App.3d 47

Perumal et al. v. Saddleback Valley Unified School District, (1988) 198 Cal.App.3d 64

Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675

Collin v. Smith, (1978) 447 F.Supp.676, affd. (1978) 578 F.2d 1197, cert. den. (1978) 439 U.S. 916

Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350

Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

Management Resources:

CDE LEGAL ADVISORIES

Limitations on Student Expression in School-Sponsored Publications, March 4, 1988

NSBA PUBLICATIONS

Digital Discipline: Off-Campus Student Conduct, the First Amendment and Web Sites, School Law in Review 2001

FREEDOM OF SPEECH/EXPRESSION

Distribution of Printed Materials and Petitions by Students

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

Official school publications include materials produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each principal shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the principal considers material submitted for publication to violate Education Code 48907, he/she shall notify the student without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the principal's determination from the Superintendent or designee. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

The principal or designee may provide bulletin boards on which student organizations may post materials of general interest. Students may collect signatures on petitions concerning school or nonschool issues.

(cf. 1325 - Advertising and Promotion)

Note: Districts might consider requiring students to include a disclaimer on all materials to be distributed. For example, a disclaimer might state that "this event is not school-sponsored or approved" or that "opinions are not necessarily those of the school district or school personnel."
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Printed materials or petitions may be distributed only:

1. Before or after school or during lunch time
2. In locations that do not obstruct the normal flow of traffic within school or at entrances

No student shall use coercion to induce students or any other persons to accept printed matter or to sign petitions. No funds shall be collected for any material distributed.

FREEDOM OF SPEECH/EXPRESSION (continued)

Clothing, Buttons and Badges

Buttons, badges, armbands and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board of Trustees policy. Such buttons, badges, etc. may not be worn if they intrude upon the rights of other student or contain derogatory or injurious remarks directed at students' minority status such as race, religion, and sexual orientation, or causes substantial disruption to school activities. No employee shall interfere with this practice on the grounds that the message may be unpopular with students or faculty.

(cf. 5132 - Dress and Grooming)

(cf. 5136 - Gangs)

NONDISCRIMINATION/HARASSMENT

District programs and activities shall be free from discrimination, including harassment, with respect to the actual or perceived ethnic group, religion, gender, color, race, ancestry, national origin, and physical or mental disability, age or sexual orientation.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6164.6 - Identification and Education under Section 504)

The Board of Trustees shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. Eligibility for choral and cheerleading groups shall be determined solely on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

(cf. 1240 - Volunteer Assistance)

(cf. 6145.2 - Athletic Competition)

(cf. 6162.5 - Student Assessment)

The schools shall provide male and female students with separate shower rooms in order to protect student modesty. In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 5145.7 - Sexual Harassment)

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

NONDISCRIMINATION/HARASSMENT (continued)

The Board hereby designates the following positions as Coordinators for Nondiscrimination:

Assistant Superintendent for Education Services (Student Issues)
Assistant Superintendent for Personnel (Employee Issues)
3537 Johnson Avenue, El Monte, CA 91731
(626) 444-9005

Any student who feels that he/she is being harassed should immediately contact either the nondiscrimination coordinator or the principal or designee. If a situation involving harassment is not promptly remedied by the nondiscrimination coordinator, principal or designee, a complaint may be filed with the Superintendent who shall determine which complaint procedure is appropriate.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference: (see next page)

NONDISCRIMINATION/HARASSMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex, especially:*

221.5 *Prohibited sex discrimination*

221.7 *School-sponsored athletic programs; prohibited sex discrimination*

48900.3 *Suspension or expulsion for act of hate violence*

48900.4 *Suspension or expulsion for threats or harassment*

48904 *Liability of parent/guardian for willful student misconduct*

48907 *Student exercise of free expression*

48950 *Freedom of speech*

49020-49023 *Athletic programs*

51006-51007 *Equitable access to technological education programs*

51500 *Prohibited instruction or activity*

51501 *Prohibited means of instruction*

60044 *Prohibited instructional materials*

CIVIL CODE

1714.1 *Liability of parents/guardians for willful misconduct of minor*

CODE OF REGULATIONS, TITLE 5

4621 *District policies and procedures*

4622 *Notice requirements*

PENAL CODE

422.6 *Interference with constitutional right or privilege*

UNITED STATES CODE, TITLE 42

2001d-2001e-17 *Title VI & VII Civil Rights Act of 1964 as amended*

2001h-2-2001h-6 *Title IX, 1972 Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3a *Prohibition of discrimination on basis of race, color or national origin*

104.7 *Designation of responsible employee for Section 504*

106.8 *Designation of responsible employee for Title IX*

106.9 *Notification of nondiscrimination on basis of sex*

Management Resources:

OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

PARENTAL NOTIFICATIONS

The Board of Trustees recognizes that notifications are essential to effective communication between the school and the home. The Superintendent or designee shall send students and parents/guardians all notifications required by law, including notifications about their legal rights, and any other notifications he/she believes will promote parental understanding and involvement.

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 5022 – Student and Family Privacy Rights)

(cf. 5124 - Communication with Parents/Guardians)

(cf. 6020 - Parent Involvement)

The Superintendent or designee shall ensure that notifications which must be sent at the beginning of each academic year include a request that the parent/guardian sign the notice and return it to the school. (Education Code 48982)

<p>Note: The district should consult legal counsel regarding disclosure of a student's medical information. In the event that a parent/guardian authorizes the district to disclose whether the student has an infectious disease, including the student's HIV status, it is recommended that any decision to increase the number of school staff who know should be made by the student and his/her family, in consultation with legal counsel.</p>
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Notifications to parents/guardians shall be written both in English and in the family's primary language when so required by law. Whenever an employee learns that a student's parent/guardian is for any reason unable to understand the district's printed notifications, the principal or designee shall work with the parent/guardian to establish other appropriate means of communication.

(cf. 6174 - Education for English Language Learners)

Legal Reference: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference:

EDUCATION CODE

221.5 Prohibited sex discrimination
231.5 Sexual harassment policy
262.3 Appeals; information re: availability of civil remedies
310 Structured English Immersion Program
17288 Students: school buildings
17612 Notification of pesticide use
32255-32255.6 Right to refuse harmful or destructive use of animals
32390 Fingerprint program; contracts; funding; consent of parent/guardian; mailing of documents containing fingerprints to parent/guardian
35178.4 Notice of accreditation status
35183 School dress codes; uniforms
35256 School accountability report card
35291 Rules
35291.5 Rules and procedures on school discipline
37616 Consultation
39831.5 School bus rider rules and information
44808.5 Permission to leave school grounds
46010.1 Notice re: excuse to obtain confidential medical services
46014 Regulations regarding absences for religious purposes
46600-46611 Interdistrict attendance agreements especially:
46601 Failure to approve interdistrict attendance
48000 Minimum age of admission
48070.5 Promotion or retention of students
48204 Residency requirements for school attendance
48205 Absence for personal reasons
48206.3 Students with temporary disabilities; individual instruction; definitions
48207 Students with temporary disabilities in hospitals outside of school district
48208 Students with temporary disabilities in qualifying hospitals
48213 Notice to parent or guardian
48216 Immunization
48260.5 Notice to parent re truancy
48263 Referral to SARB or probation department
48432.5 Involuntary transfers of students
48637.1 Notice of intended assignment
48900.1 Attendance of parent or guardian for portion of school day
48904 Liability of parent/guardian for willful student misconduct
48904.3 Withholding grades, diplomas, or transcripts
48906 Notification of release of student to peace officer
48911 Notification in case of suspension
48912 Closed sessions; consideration of suspension
48915.1 Expelled individuals: enrollment in another district
48916 Readmission procedures

Legal Reference continued: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

- 48918 Rules governing expulsion procedures
- 48980 Required notification at beginning of term
- 48980.3 Notification of pesticide use
- 48981 Time and means of notification
- 48982 Signature; return to school; effect of signature
- 48983 Contents of notice
- 48984 Activities prohibited unless notice given
- 48985 Notices to parents in language other than English
- 48987 Child abuse information
- 49063 Notification of parents of their rights
- 49067 Regulations regarding student's achievement
- 49068 Transfer of permanent enrollment and scholarship record
- 49069 Absolute right to access
- 49070 Challenging content of records
- 49073 Release of directory information
- 49076 Access to student records
- 49077 Access to information concerning a student in compliance with court order
- 49091.14 Prospectus
- 49302 Parental consent
- 49332 Notifications of retention of object by school personnel; release
- 49403 Cooperation in control of communicable disease and immunization
- 49423 Administration of prescribed medication for student
- 49451 Physical examinations: parent's refusal to consent
- 49452.5 Screening for scoliosis
- 49456 Report to parent
- 49472 Medical and hospital services for students
- 49480 Continuing medication regimen for nonepisodic conditions
- 49510-49520 Duffy-Moscone Family Nutrition Education and Services Act of 1970
- 51201.5 Instruction on AIDS and AIDS prevention
- 51240 Excuse from instruction due to religious beliefs
- 51513 Personal beliefs
- 51550 Sex education courses
- 51554 Parent notification; sex education courses
- 51555 Parent notification in grades K-6; sex education courses
- 51820 Venereal disease instruction; written notification to parent; inspection of instructional material; consensual student participation
- 51870.5 Internet access policy
- 52164.1 Census-taking methods; determination of primary language; assessment of language skills; notice
- 52164.3 Notice of reassessment of language skills
- 52173 Consultation with parents or guardians; notice to parents or guardians; withdrawal of student from program
- 52244 Advanced Placement Program
- 54444.2 Migrant education programs; parent involvement
- 56301 Child-find system; policies re: written notification rights

Legal Reference continued: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

56321 *Special education: proposed assessment plan*
56329 *Written notice of right to findings; independent assessment*
56341 *Individualized education program team*
56343.5 *IEP meetings*
56346 *Parental notice and consent to special education program*
58501 *Alternative schools: notice required prior to establishment*
60641 *Standardized Testing and Reporting Program*
60850 *High School Exit Exam*

HEALTH AND SAFETY CODE

1596.857 *Right to enter child care facility*
120365 *Immunizations*
120370 *Immunizations*
120375 *Immunizations*
120440 *Sharing immunization information*
124085 *Certificate of receipt; health screening and evaluation services; waiver by parent/guardian*
124100 *School districts and private schools; information to parents or guardians of kindergarten children; withholding of average daily attendance funds*

PENAL CODE

627.5 *Hearing request following denial or revocation of registration*

WELFARE AND INSTITUTIONS CODE

18976.5 *Parental notice; right of refusal to participate*

CODE OF REGULATIONS, TITLE 5

863 *Standardized Testing and Reporting Program*
3052 *Behavioral intervention*
3831 *General standards (Gifted and Talented Program)*
4622 *Notice requirements and recipients*
4631 *Responsibilities of the local agency*
11303 *Education for English language learners*
11309 *Parental Exception Waivers*
11523 *Notice of proficiency examinations (HS)*
18066 *Policies and procedures absences for child care*

UNITED STATES CODE, TITLE 20

1232g *Family Educational and Privacy Rights Act*
1415 *Procedural Safeguards*
1681-1688 *Title IX, discrimination based on sex or blindness*

UNITED STATES CODE, TITLE 42

2001d -2001d-7, *Title VI, Civil Rights Act of 1964*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.7 *Student records, annual notification*
99.34 *Student records, disclosure to other educational agencies*
104.36 *Procedural safeguards*
106.9 *Dissemination of policy, nondiscrimination on basis of sex*

Legal Reference continued: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference: (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34 (continued)

300.345 *Parent participation*

300.502 *Independent educational evaluation*

300.503 *Prior written notice*

300.505 *Parental consent*

300.507 *Parent notice due process hearing*

300.523 *Manifestation determination review*

CODE OF FEDERAL REGULATIONS, TITLE 40

763.93 *Management plans*

PUBLIC LAW 107-110

1111 *State plans*

1112 *Local educational agency plans*

1116 *Academic assessment and local educational agency school improvement*

1118 *Parental involvement*

9528 *Armed forces recruiter access to students*

Students

E 5145.6(a)

PARENTAL NOTIFICATIONS

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
Beginning of each school year	32255-32255.6, 48980	BP 5145.8 AR 5145.8	Right to refrain from harmful or destructive use of animals
Annually by February 1	35256	BP 0510	School Accountability Report Card provided
Beginning of each school year	35291, 48980	AR 5144 AR 5144.1	District and site discipline rules
Beginning of each school year if high school open campus	44808.5, 48980	BP 5112.5	Open campus
Beginning of each school year if Board has adopted resolution allowing such absence	46014, 48980	BP 5113 AR 5113	Absence for religious purposes
Beginning of each school year	48205, 48980	BP 5113 AR 5113	Absence for justifiable personal reasons
Beginning of each school year	48205, 48980	AR 6154	Grade/credit cannot be year reduced due to excused absence if work or test has been completed
Beginning of each school year	48206.3, 48207, 48208, 48980	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48216, 48980	BP 5141.31 AR 5141.31	Immunizations
Beginning of each school year	48980	AR 5116.1 AR 5111.1 AR 5117	All statutory attendance options and available local attendance options Options for meeting residency

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	48980, 231.5	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 52244	AR 6141.5	Availability of state funds to cover costs of advanced placement exam fees
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year for districts connected to the Internet	48980, 51870.5	AR 6163.4	Policy on student access to the Internet
Beginning of each school year	49063, 49068, 49069; 20 USC 1232g; 34 CFR 99.7	BP 5125 AR 5125	Student records: inspect and review, access, types, location, persons responsible location of log, access criteria, cost of copies, amendment requests, criteria to determine school official legitimate educational interest
Beginning of each school year	49063, 49070	AR 5125 AR 5125.3	Challenge, review and expunging of records
Beginning of each school year	49063, 49073	AR 5125.1	Release of directory information
Beginning of each school year	49063, 49091.14	AR 5125 AR 5020	Availability of course prospectus
Beginning of each school year	49423, 49480, 48980	AR 5141.21 AR 5141.31	Administration of prescribed medication
Beginning of each school year	49451, 48980	BP 5141.3	Refusal to consent to physical examination
Beginning of each school year	49472, 48980	AR 5143	Availability of insurance

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	49510-49520, 48980	BP 3553	Free and reduced price meals
Beginning of each school year	51240, 48980	BP 6141.2 AR 6142.1 BP 6142.8	Excuse from health/sex education due to religious belief
Beginning of each school year	51550, 48980	AR 6142.1	Sex education
Annually	56301	BP 6164.4	Rights of all parents related to special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501	BP 6181	Alternative schools
Beginning of each school year	20 USC 1681-1688; 42 USC 2000d-2000d-7; 34 CFR 106.9	BP 0410	Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills
Annually	5 CCR 4622	AR 1312.3	Uniform complaint procedures and available appeals and civil law remedies; identity of coordinators
Annually to parent, teacher and employee organizations; in absence of organizations, to individuals	40 CFR 763.93	AR 3514	Availability of complete, updated management plan for asbestos containing material in school buildings

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	Section 1061 P.L. 107-110	AR 5022	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing
For districts receiving Title I funds, beginning of each school year	Section 1111 P.L. 107-110	AR 4112.2 AR 4222	Right to request information re: professional qualifications of their child's teacher and paraprofessional
II. <u>At Specific Times During the Student's Academic Career</u>			
At least once before counseling in grades 9-12	221.5, 48980	BP 6164.2	Course selection and career counseling
At beginning of each school year if student has been placed in structured English immersion program	310; 5 CCR 11309	AR 6174	Placement of child in program and opportunity to apply for parental exception waiver
Before high school student attends specialized secondary program on a university campus	17288	None	University campus buildings may not meet Education Code requirements for structural safety
To members of athletic teams	32221.5		Offer of insurance; low Cost program option
Before presenting a course using live or dead animals or animal parts	32255-32255.6	BP 5145.8	Right to refrain from harmful or destructive use of animals
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	BP 5142.1	Fingerprinting program
Beginning of each term for students who have not passed the exit exam by the end of grade 12	37254	AR 6179	Availability of intensive instruction and services for two consecutive academic years and right to file complaint

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u> (continued)			
Upon registration, if K-6 students have not previously been transported	39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red in a school bus light danger zones, walking to and from stops
Beginning of each school year in grades 9--12	46010.1	BP 5113	Absence for confidential medical services
Upon admission to school	48216, 49403; Health and Safety Code 120365, 120370 and 120375	AR 5141.31	Immunizations
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry
Before assigning student to opportunity school/class/program	48637.1	BP 6182 AR 6182	Assignment to an opportunity school/class/program
Beginning of each school year in grades 9-12 and when high school student transfers into the district	48980, 60850	AR 6146.1 AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
Beginning of each school year for students in grades 9-12	51229, 48980	BP 6143	Explanation of college admission requirements, list of UC and CSU web sites that list Certified courses, description of Career technical education and CDE Internet address, how students may meet with counselors
Beginning of each school year or before receiving instruction on AIDS, family life human sexuality, sexually transmitted diseases	51201.5 51555	AR 6142.1 AR 6142.2	Explanation of the instruction; right to request specific Education Code sections

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
Prior to child participation in child abuse prevention program	51550; Welfare and Institutions Code 18976.5	BP 5141.41	Child abuse prevention programs
Beginning of each school year	51938, 48980	AR 6142.1	Explanation of sex HIV/AIDS instruction; right to view A/V materials, who's teaching, request specific Ed. Code sections, right to excuse

II. At Specific Times During the Student's Academic Career (continued)

Upon assessment and reassessment of English proficiency and enrollment in program of education for English language learners	52164.1, 52164.3, 52173; 5 CCR 11303	AR 6174	Program of education for English language learners
Within 20 working days of receiving results of standardized achievement tests	60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
Annually to each high school student	66204	BP 6143	Copy of list of courses offered that are certified by UC as meeting admission criteria
When child is enrolled in kindergarten	Health and Safety Code 124085, 124100	BP 5141.32	Health screening examination
Prior to student participation in gifted and talented program	5 CCR 3831	AR 6172	Gifted and talented student program
Within 30 calendar days of receipt of results	5 CCR 11511.5	AR 6174	CELDT test results
To students in grades 11 and 12, early enough to enable registration for current fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners	Section 1112 P.L. 107-110	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject English, exit requirements, right to choose another program
III. <u>When Special Circumstances Occur</u>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
III. <u>When Special Circumstances Occur</u> (continued)			
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a continuous school program	37616	BP 6117	Continuous school program
When interdistrict transfer is requested and not approved or denied within 30 days	46601	AR 5117	Appeal process
When student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When a student is classified a truant	48260.5	AR 5113	Parental obligation
When a truant is referred to a SARB or probation department	48263	AR 5113	Name and address of SARB or probation department and reason for referral
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to involuntary transfer to continuation school

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
When teacher requires parental attendance	48900.1	AR 5144.1	Parent/guardian attendance pursuant to law
III. <u>When Special Circumstances Occur</u> (continued)			
Prior to involuntary to transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to Involuntary transfer to continuation school
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
Before holding a closed session re: suspension	48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	48915.1, 48918	AR 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	48916	AR 5144.1	Description of readmission procedures
10 calendar days before expulsion hearing	48918	AR 5144.1	Notice of expulsion hearing

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
When expulsion or suspension of expulsion occurs	48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	48980	BP 6111	When minimum days scheduled after beginning of the school year
III. <u>When Special Circumstances Occur</u> (continued)			
When parents request guidelines for filing complaint of child abuse at a school site	48987	BP 1312.1	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	49068	AR 5125	Right to receive copy of student's record and to challenge its content
Within 24 hours of release of information to a judge or probation officer	49076	AR 5125	Release of student record information to a judge or probation officer for conducting a truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	49077	AR 5125	Release of information pursuant to court order or subpoena
Before student serves on safety patrol	49302	AR 5142.2	Parental consent
When injurious object is taken from student	49332	AR 5131.7	Weapons and dangerous objects
When screening results in suspicion that student has scoliosis	49452.5	BP 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	BP 5141.3	Vision or hearing test

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
When a district with junior/ high schools does not provide medical/hospital services for injured athletic students	49471	AR 5143	Unavailability of services
III. <u>When Special Circumstances Occur</u> (continued)			
Before guest speaker or assembly on AIDS prevention, family life, human sexuality, sexually transmitted diseases	51201.5, 51554, 51555	AR 6142.1 AR 6142.2	Date of instruction, name of organization, right to request specific Education Code sections
Before any test questioning personal beliefs	51513	BP 5145.1	Permission for test questioning personal beliefs
Within 14 days of instruction	51938	BP 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health & Safety 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health & Safety Code 120440	AR 5125	The name and address of the agency; acceptable use of the information; right to examine; right to refuse to share
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When providing written decision in response to a complaint re: discrimination, special education, or noncompliance with laws regulating educational programs	5 CCR 4631	AR 1312.3	Appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
III. <u>When Special Circumstances Occur</u> (continued)			
For districts receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not “highly qualified”	Section 1111 P.L. 107-110	AR 4112.2	Timely notice to parent of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress	Section 1112 P.L. 107-110	AR 0520.2	Notice of failure to parents of ELL students
When school identified for program improvement or corrective action	Section 1116 P.L. 107-110	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services
For districts with schools that have been identified for program improvement or corrective action, annually	Section 1116 P.L. 107-110	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
When district identified for Program Improvement	20USC6318	AR 0520.3	Explanation of status, reasons for identification,, how parents can participate in upgrading district
For schools receiving Title I funds, upon development of parent involvement policy	Section 1118 P.L. 107-110	AR 6171	Notice of policy
For districts with secondary students receiving Title I funds	Section 9528 P.L. 107-110	AR 5125.1	Notice that parents may request district to not release name, address, phone number of child to military recruiters without prior written consent

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. <u>Special Education Notices</u>			
Prior to conducting initial evaluation	56301, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when district intending to record	56341.1	AR 6159	Intention to tape record IEP meeting
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request
Prior to participation in special education	56346	AR 6159	Notice of IEP meetings, why participation necessary
Before functional behavioral assessment begins	5 CCR 3052	AR 6159.4	Notification and consent
Before modification of behavioral intervention plan	5 CCR 3052	AR 6159.4	Need for modification, right to question modification
Within one school day of emergency intervention or serious property damage	5 CCR 3052	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation or placement, or FAPE	20 USC 1415(c) 34 CFR 300.503	AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d)	AR 6159.1	Procedural safeguards notice
For student receiving exit exam waiver, prior to receipt of diploma	60852.4	AR 6162.52	Right to FAPE
Registration of complaint	20 USC 1415(d)	AR 6159.1	Procedural safeguards Notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.523	AR 5144.2	Decision and procedural safeguards notice

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. <u>Special Education Notices</u> (continued)			
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.523	AR 5144.2	Decision and procedural safeguards notice
Early enough to ensure opportunity for parent to attend IEP meeting	34 CFR 300.345	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
Upon requesting a due process hearing	34 CFR 300.507	AR 6159.1	Child's name, address, school, description of problem, proposed resolution
V. <u>Classroom Notices</u>			
In each classroom in each school	35186	AR/E 1312.4	Complaint rights re: sufficiency of instructional materials, teacher vacancy and misassignment, maintenance of facilities

SEXUAL HARASSMENT

Note: Education Code 231.5 **mandates** the district to have written policies on sexual harassment. The following policy addresses the harassment of and/or by students; for policy addressing the sexual harassment of employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

A school district can be held liable under Title IX (20 USC 1681-1688) for both student-on-student and employee-to-student sexual harassment. In Davis v. Monroe County Board of Education, the Supreme Court held that a district would be liable if it is deliberately indifferent to known student-on-student sexual harassment. The district would be deliberately indifferent if: (1) it had substantial control over the harasser and the context in which the sexual harassment occurred, (2) the harassment was so severe, pervasive and objectively offensive that it deprived the victim of access to educational opportunities or benefits provided by the district, (3) the district had actual knowledge of the harassment, and (4) the district's conduct was unreasonable considering the surrounding circumstances. These standards were applied by the Ninth Circuit Court of Appeals in Reese v. Jefferson School District, where the court concluded that the district could not be held liable since the student involved did not notify the district of any incident of harassment.

In Gebser v. Lago Vista Independent School District, the court held that a student cannot recover damages under Title IX for employee-to-student sexual harassment unless "a school district official who, at a minimum, has authority to institute corrective measures on the district's behalf has actual notice of, and is deliberately indifferent to, the employee's misconduct." In addition, the position of the Office of Civil Rights (OCR) as stated in its January 2001 Revised Sexual Harassment Guidance, is consistent with the court decisions.

The Board of Trustees is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same gender
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the person(s) to whom a report of sexual harassment should be made

SEXUAL HARASSMENT (continued)

(cf. 5131.5 - Vandalism, Theft and Graffiti)
(cf. 5137 - Positive School Climate)
(cf. 5141.41 - Child Abuse Prevention)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 6142.1 - Family Life/Sex Education)

Complaint Process

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Superintendent or designee.

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5141.4 - Child Abuse Reporting Procedures)
(cf. 5145.3 - Nondiscrimination/Harassment)

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

(cf. 1312.1 - Complaints Concerning District Employees)

Disciplinary Measures

<p>Note: Pursuant to Education Code 48900.2, a student in grades 9-12 may be suspended and/or expelled from school for sexual harassment. Districts should note, however, that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.</p>

SEXUAL HARASSMENT (continued)

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 9 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

Legal Reference: (see next page)

SEXUAL HARASSMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*
48900.2 *Additional grounds for suspension or expulsion; sexual harassment*
48904 *Liability of parent/guardian for willful student misconduct*
48980 *Notice at beginning of term*

CIVIL CODE

51.9 *Liability for sexual harassment; business, service and professional relationships*
1714.1 *Liability of parents/guardians for willful misconduct of minor*

CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Discrimination*

UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 *Nondiscrimination on the basis of sex in education programs*

COURT DECISIONS

Reese v. Jefferson School District, (2001) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Oona R.-S. etc. v. Santa Rosa City Schools et al., (1995) 890 F.Supp. 1452

Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143

Clyde K. v. Puyallup School District #3, (1994) 35 F.3d 1396

Patricia H. v. Berkeley Unified School District, (1993) 830 F.Supp. 1288

Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028

Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d 651

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999

OFFICE OF CIVIL RIGHTS' PUBLICATIONS

Revised Sexual Harassment Guidance, January 2001

Sexual Harassment Guidance, March 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

SEXUAL HARASSMENT

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting, when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

Types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects

SEXUAL HARASSMENT (continued)

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures and standards of conduct are posted (Education Code 231.5)
3. Appear in school or district publications that set forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)
4. Be provided to employees and employee organizations

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. The principal or designee shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:
 - a. The student who is complaining
 - b. The person accused of harassment
 - c. Anyone who witnessed the conduct complained of
 - d. Anyone mentioned as having related information
2. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.
3. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:
 - a. The Superintendent or designee

SEXUAL HARASSMENT (continued)

- b. The parent/guardian of the student who complained
 - c. If the alleged harasser is a student, his/her parent/guardian
 - d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
 - e. Child protective agencies responsible for investigating child abuse reports
- (cf. 5141.4 - Child Abuse Reporting Procedures)*
- f. Legal counsel for the district
4. When the student who complained and the alleged harasser so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
5. In reaching a decision about the complaint, the principal or designee may take into account:
- a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complaining student reacted to the incident
 - d. Evidence of any past instances of harassment by the alleged harasser
 - e. Evidence of any past harassment complaints that were found to be untrue
6. To judge the severity of the harassment, the principal or designee may take into consideration:
- a. How the misconduct affected one or more students' education
 - b. The type, frequency and duration of the misconduct
 - c. The number of persons involved
 - d. The age and gender of the person accused of harassment

SEXUAL HARASSMENT (continued)

- e. The subject(s) of harassment
 - f. The place and situation where the incident occurred
 - g. Other incidents at the school, including incidents of harassment that were not related to gender
7. The principal or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.
 8. If the principal or designee verifies that sexual harassment occurred, a report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed, and prevent retaliation or further harassment.
 9. Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.
2. Providing staff inservice and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.
4. Notifying child protective services.
5. Taking appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

REFUSAL TO HARM OR DESTROY ANIMALS

The Board of Trustees supports the right of students to refrain from participating in instruction which involves dissecting or otherwise harming or destroying animals when they have a moral objection to such activities.

Students shall not be discriminated against because of a decision to exercise this right. (Education Code 32255.1)

(cf. 5145.2 - Freedom of Speech/Expression)

After notifying the teacher of his/her objection pursuant to law and administrative regulations, the student shall be excused from the project and may be provided an appropriate alternative project. The Board encourages staff, whenever possible, to provide an alternative project that teaches the same knowledge and skills as the original project. In any case, staff shall ensure the effective use of students' time by providing instructional activities relevant to the course of study.

Legal Reference:

EDUCATION CODE

32255-32255.6 Student's right to refrain from harmful/destructive use of animals

48980 Parental notification at beginning of term

48981-48984 Method and content of notification; signature required

REFUSAL TO HARM OR DESTROY ANIMALS

At the beginning of each academic year, the district shall notify parents/guardians, in writing, of students' right to refrain from instruction involving harm or destruction of animals. (Education Code 48980, 48981)

(cf. 5145.6 - Parental Notifications)

In addition, each teacher of a course that uses live or dead animals or animal parts shall inform students of their right to refrain from the harmful or destructive use of animals. (Education Code 32255.4)

Students who wish to refrain from such instruction shall notify the teacher and shall provide a note from their parent/guardian substantiating the objection. (Education Code 32255.1)

A teacher's determination of whether a student may pursue an alternative project or be excused from the project shall not be arbitrary or capricious. (Education Code 32255.3)

If the teacher believes an adequate alternative project is possible, he/she may work with the student to develop and agree upon an alternative project which would provide the knowledge, information or experience required by the course of study. Alternative projects include but are not limited to the use of video tapes, models, films, books and computers. The alternative project shall involve time and effort comparable to that required by the original project. (Education Code 32255, 32255.1)

Students who participate in an alternative project shall pass all course examinations in order to receive course credit. Students may request an alternative test, however, if a regular examination requires the harmful or destructive use of animals. (Education Code 32255.1)

This right shall apply to all 9-12 courses, except classes and activities conducted as part of agricultural education that provide instruction on the care, management and evaluation of domestic animals. (Education Code 32255.5, 32255.6)

HATE-MOTIVATED BEHAVIOR

Note: As California's population becomes more diverse, it is important that school districts provide a safe and harmonious learning environment for all students. Pursuant to Education Code 201, schools have an affirmative obligation to combat racism, sexism, and other forms of bias, as well as a responsibility to provide equal educational opportunity. Developing policy to address hate-motivated behavior is one way districts can help teach students respect and understanding of diversity.

In its publication entitled Hate-Motivated Behavior in Schools, the California Department of Education defines hate-motivated behavior as an act, or attempted act, motivated by hostility towards a victim's real or perceived ethnicity, national origin, immigrant status, gender, sexual orientation, religious belief, age, disability, or any other physical or cultural characteristic. Some hate-motivated behavior may also be a crime as defined in state or federal law. These crimes include, but are not limited to: bomb threats, cross burnings, destruction or defacement of property, and certain types of vandalism and assaults.

The Board of Trustees affirms the right of every student to be protected from hate-motivated behavior. It is the intent of the Board to promote harmonious relationships that enable students to gain a true understanding of the civil rights and social responsibilities of people in our society. Behavior or statements that degrade an individual on the basis of his/her race, ethnicity, culture, heritage, gender, sexual orientation, physical/mental attributes, religious beliefs or practices shall not be tolerated.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515.1 Crime Data Reporting)

(cf. 3515.4 - Recovery for Property Loss or Damage)

(cf. 5131.5 - Vandalism, Theft and Graffiti)

(cf. 5136 - Gangs)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 6141.6 - Multicultural Education)

Any student who feels that he/she is a victim of hate-motivated behavior shall immediately contact the principal or designee. If the student believes that the situation has not been remedied by the principal or designee, he/she may file a complaint in accordance with district complaint procedures.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Staff who receive notice of hate-motivated behavior or personally observe such behavior shall notify the principal, Superintendent or designee, and law enforcement, as appropriate. Students demonstrating hate-motivated behavior shall be subject to discipline in accordance with Board policy and administrative regulation.

(cf. 3515.3 - District Police/Security Department)

(cf. 4158/4258/4358 - Employee Security)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

HATE-MOTIVATED BEHAVIOR (continued)

In addition, the district shall provide counseling and appropriate sensitivity training and diversity education for students exhibiting hate-motivated behavior. The district shall also provide counseling, guidance and support, as necessary, to those students who are the victims of hate-motivated behavior.

(cf. 6164.2 - Guidance/Counseling Services)

Note: Local law enforcement agencies and human rights commissions have established countywide hate crime networks aimed at responding to and preventing hate crimes. The California Association of Human Relations Organizations (CAHRO) is a statewide association of people and organizations that conducts activities designed to protect human and civil rights, including providing training on human relations.

The district shall provide age-appropriate instruction to help promote understanding of and respect for human rights.

The Superintendent or designee shall ensure that staff receive the appropriate training to recognize hate motivated behavior and methods for handling such behavior in appropriate ways.

At the beginning of each school year, students and staff shall receive a copy of the district's policy on hate-motivated behavior.

Legal Reference: (see next page)

HATE-MOTIVATED BEHAVIOR (continued)

Legal Reference:

EDUCATION CODE

200-262 *Prohibition of discrimination on the basis of sex*

48900.3 *Suspension for hate violence*

PENAL CODE

186.21 *Street terrorism; legislative findings and declarations*

422.6-422.95 *Civil Rights*

628-628.1 *School crime reporting*

11410-11414 *Terrorism*

13023 *Reports by law enforcement of crimes motivated by race, ethnicity, religion, sexual orientation or physical or mental disability*

13519.6 *Hate crimes, training courses and guidelines*

UNITED STATES CODE, TITLE 18

245 *Federally protected activities*

Management Resources:

CSBA PUBLICATIONS

Protecting Our Schools: Governing Board Strategies to Combat School Violence, 1995

ALAMEDA OFFICE OF EDUCATION & CALIFORNIA DEPARTMENT OF EDUCATION

PUBLICATIONS

Hate-Motivated Behavior in Schools: Response Strategies for School Boards, Administrators, Law Enforcement and Communities, 1997

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS & NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PUBLICATIONS

Protecting Students from Harassment and Hate Crime: A Guide for Schools, 1999

WEB SITES

CDE: <http://www.cde.ca.gov>

California Association of Human Relations Organizations: <http://www.cahro.org>

United States Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR/index.html>

MARRIED/PREGNANT/PARENTING STUDENTS

The Board of Trustees recognizes that early marriage, pregnancy or parenting may disrupt a student's education and increase the chance of a student dropping out of school. The Board therefore desires to provide instruction and services designed to assist in pregnancy prevention. The Board also desires to support pregnant and parenting students to attain strong academic and parenting skills and to promote the healthy development of their children.

(cf. 5147 - Dropout Prevention)

(cf. 5149 - At-Risk Students)

(cf. 6011 - Academic Standards)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)

Married, pregnant and parenting students shall have the same educational and extracurricular opportunities as all students. Participation in special programs or schools shall be voluntary.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5127 - Graduation Ceremonies and Activities)

(cf. 6145 - Extracurricular and Cocurricular Activities)

For school-related purposes, married students under the age of 18 are emancipated minors and have all the rights and privileges of students who are 18, even if the marriage has been dissolved. (Family Code 7002)

Pregnant and Parenting Students

Note: Education Code 54740-54749.5 establishes the California School Age Families Education (Cal-SAFE) program for pregnant and parenting students. This voluntary program focuses on youth development and dropout prevention for pregnant/parenting students and on child care and development services for their children. SB 1667 (Ch. 71, Statutes of 2000) amended Education Code 54745 to eliminate the authorization for a consortium of educational agencies to operate a Cal-SAFE program.

The Cal-SAFE program is intended to consolidate, coordinate and expand services previously provided through the Pregnant Minors Program, the School Age Parenting and Infant Development Program, and the Pregnant and Lactating Students Program. Districts and county offices of education operating one of these other programs have priority for Cal-SAFE funding. In addition, to avoid duplicative services as required by Education Code 54746, Cal-SAFE programs should be integrated with local Adolescent Family Life Programs as well as local Cal-Learn programs, which are administered by county welfare departments as part of the Greater Avenues for Independence (GAIN) program to assist pregnant and parenting teens receiving welfare aid.

Pursuant to Education Code 54745, a district applying for a Cal-SAFE grant is **mandated** to adopt a policy or resolution declaring its commitment to provide a comprehensive, continuous, community-linked program for pregnant and parenting students and their children that reflects the cultural and linguistic diversity of the community.

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

The Board is committed to providing a comprehensive, continuous, community-linked program for pregnant and parenting students and their children that reflects the cultural and linguistic diversity of the community.

The Superintendent or designee shall collaborate with the County Superintendent of Schools and other community agencies and organizations to ensure that appropriate educational and related support services are available to meet the needs of pregnant and parenting teens and their children.

(cf. 1020 - Youth Services)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

Pregnant and parenting students retain the right to participate in any comprehensive school or educational alternative programs. School placement and instructional strategies for participating students shall be based on the needs and learning styles of individual students. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the individual student and/or child. (Education Code 54745)

Note: Education Code 51745 provides that pregnant or parenting students who are the primary caregivers will not be counted within the 10% cap on the number of students enrolled in an opportunity school/program or a continuation high school who may participate in independent study.

(cf. 6158 - Independent Study)

(cf. 6182 - Opportunity School/Class/Program)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6200 - Adult Education)

In addition to providing a quality academic program for pregnant and parenting students, the district's program may provide a parenting education and life skills class, special school nutrition supplements for pregnant and lactating students, and a child care and development program on or near the school site for the children of enrolled students. The district's program may provide other support services authorized by Education Code 54746 as necessary to meet the needs of students and their children. (Education Code 54745)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 5141.6 - Student Health and Social Services)

(cf. 5148 - Child Care and Development)

(cf. 6164.2 - Guidance/Counseling Services)

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

Pregnancy Prevention Program

Note: The following optional section may be deleted or revised as desired to reflect district practice

The Superintendent or designee shall ensure that age-appropriate, culturally sensitive and community-sensitive instruction and services are available to assist in the prevention of pregnancy among minors. The district's program shall be based on strategies that have proven effective in delaying the onset of sexual activity and reducing the incidence of pregnancy among school-age youth. Instruction shall be consistent with the district's family life/sex education curriculum.

(cf. 5141.25 - Availability of Condoms)

(cf. 6142.1 - Family Life/Sex Education)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

Legal Reference: (see next page)

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

Legal Reference:

EDUCATION CODE

2551.3 Determination of state aid for pregnant minors program
8920-8929 Teenage pregnancy prevention grant program
17293 School facilities for pregnant/parenting teen programs
48220 Compulsory education requirement
48410 Persons exempted from continuation classes
49553 Nutrition supplements for pregnant/lactating students
49558 Confidentiality of applications and records for free or reduced price meals
51220.5 Parenting skills and education
51745 Independent study
52610.5 Enrollment of pregnant and parenting students in adult education
54740-54749.5 California School Age Families Education Program (Cal-SAFE)

FAMILY CODE

7002 Description of emancipated minor
7050 Purposes for which emancipated minor considered an adult

HEALTH AND SAFETY CODE

124175-124200 Adolescent and Family Life Act

CODE OF REGULATIONS, TITLE 5

11820-11834 Pregnant minor program
18140-18175 School-age parenting and infant development programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.40 Marital or parental status

Management Resources:

CDE PUBLICATIONS

Pregnant and Parenting Students: A Report to the Legislature, April 1996

SBE POLICIES

Policy statement on adolescent pregnancy and parenting, July 9, 1993

WEB SITES

CDE: <http://www.cde.ca.gov>

California Department of Health Services: <http://www.dhs.ca.gov>

Department of Social Services: <http://www.dss.ca.gov>

MARRIED/PREGNANT/PARENTING STUDENTS

The Superintendent or designee may grant a student a leave of absence due to pregnancy, childbirth or abortion for as long as it is deemed medically necessary. At the conclusion of the leave, the student shall be reinstated to the status she held when the leave began. (34 CFR 106.40)

(cf. 5112.3 – Student Leave of Absence)

A pregnant or parenting student also may request exemption from attendance because of a physical or mental condition or because of personal services that must be rendered to a dependent. (Education code 48410)

(cf. 5112.1 – Exemptions from Attendance)

Cal-SAFE Program

Note: The following section reflects requirements of the California School Age Families Education (Cal-SAFE) program for expectant and parenting students (Education Code 54740-54749.5). The following section is optional for districts not receiving Cal-SAFE grants.

AB 1818 (Ch. 1168, Statutes of 2002) amended Education Code 54747 to clarify that a student with an IEP is eligible only if he/she is also an expectant parent, custodial parent, or noncustodial parent taking an active role in the care and supervision of the child, and has not earned a high school diploma or its equivalent.

A male or female student shall be eligible to enroll in the district’s California School Age Families Education (Cal-SAFE) program if he/she: (Education Code 54747, 56026)

1. Is an expectant parent, custodial parent, or non-custodial parent taking an active role in the care and supervision of the child
2. Has not earned a high school diploma or its equivalent
3. Meets one of the following additional conditions:
 - a. Is 18 years of age or younger.
 - b. Is age 19 and has been continuously enrolled in the program since before his/her 19th birthday. Such a student may be enrolled in the program for one additional semester.
 - c. The student is below age 22 and has an active individualized education plan.

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

(cf. 6159 - Individualized Education Program)

Students shall be enrolled in the program on an open-entry/open-exit basis. Students shall not be denied initial or continuous enrollment because of having had multiple pregnancies, more than one child, or a change in eligibility status from expectant to parenting. (Education Code 54747)

No fees shall be charged to students or their families for services provided through the district's Cal-SAFE program. (Education Code 54745)

(cf. 3260 - Fees and Charges)

The Superintendent or designee shall complete an intake procedure regarding each student upon entry into the program, and periodically thereafter as necessary, to determine appropriate levels and types of services to be provided. (Education Code 54746)

The Superintendent or designee shall provide staff development and conduct community outreach in order to establish a positive learning environment and supportive school policies. (Education Code 54745)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall participate in the development of the county service coordination plan for providing educational and related support services to expectant and parenting teens and their children. He/she also shall participate in data collection and evaluation of the program. (Education Code 54744, 54745)

(cf. 5148.1 – Child Care Services for Parenting Students)

(cf. 6190 – Evaluation of the Instructional Program)

(cf. 9000 – Role of the Board)

DROPOUT PREVENTION

Because high school graduation provides a foundation for postsecondary educational opportunities, successful employment and/or lifelong learning, the Board of Trustees believes that every student in the district should remain in school and meet district standards for graduation. The Board desires to provide a challenging learning environment that encourages school attendance.

(cf. 5113 - Absences and Excuses)

(cf. 6011 - Academic Standards)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.5 - Elementary/Middle School Graduation Requirements)

The objectives of the district's dropout prevention program shall be to help students become self-motivated, acquire the basic skills necessary for all higher learning and meet district standards at each grade level.

The Superintendent or designee shall develop strategies to identify and serve students at all grade levels who are at risk of dropping out of school. These may include students who demonstrate frequent absenteeism, truancy or tardiness, are achieving below grade-level expectations, or may drop out because of personal, social, health or economic reasons.

The school site council at each school shall develop a comprehensive school plan for student retention in accordance with the law, Board policy, and administrative regulation. The plan shall be designed to help reduce student absenteeism and dropout rates and to improve student achievement.

(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)

(cf. 5149 - At-Risk Students)

Legal Reference:

EDUCATION CODE

35160 Authority of governing board

52300-52331 Regional Occupational Centers

52890 Outreach consultants

52900-52904 Alternative education and work centers

54660-54669 The Elementary and Secondary Dropout Prevention Act of 1969

54685-54686.2 The Early Intervention for School Success Program

54690-54697 Partnership academies

54720-54734 School-Based Student Motivation and Maintenance Program and Dropout Recovery Act

58550-58562 Educational clinics

69561 Outreach to increase motivation for low-income fifth and sixth graders

DROPOUT PREVENTION (continued)

(cf. 0420 – School Plans/Site Councils)

Outreach Consultants

The Superintendent or designee shall ensure that eligible schools have outreach consultants to help meet the needs of at-risk students.

Priority shall be given to placing outreach consultants in schools that have at least 50 percent of students eligible for the federal free and reduced lunch program and that are eligible for Title I funds pursuant to 20 USC 6301-6322. (Education Code 41506)

(cf. 3553 – Free and Reduced Price Meals)

(cf. 6171 – Title I Programs)

Outreach consultants shall: (Education Code 52890)

1. If hired after January 2, 2004, possess a Dropout Prevention Specialist Certificate from a California State University or enroll in a Dropout Prevention Specialist Certificate program within 90 days of the date of hire

(cf. 4112.2 – Certification)

2. Demonstrate knowledge of local alternative educational programs and employ those programs to respond to the differential needs and unique learning styles of students
3. Demonstrate knowledge of local community agencies and community programs to recruit those agencies and programs to assist in the physical or psychological remediation of students
4. Utilize local school programs, options, and opportunities to assist students in locating, securing, or retaining employment
5. Utilize techniques that enhance interpersonal communication, self-understanding, self-disclosure, and depth-level sharing
6. Employ appropriate methods to create circumstances necessary so that change is permitted and encouraged in individuals, programs, and institutions
7. Be responsible for supervising, instructing, conducting negotiations with, and advising students and adults

Legal Reference: (see next page)

DROPOUT PREVENTION (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing board
41505-41508 Student Retention Block Grant
48400-48403 Compulsory continuation education
48430-48438 Continuation education
48660-48667 Community day schools
51745-51749.3 Independent study
52300-52334 Regional Occupational Centers
52890 Qualifications and duties of outreach consultants
54690-54697 Partnership academies
64000-64001 Single plan for student achievement

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52014 Inclusion of activities in plan
52015 Components of plan
52900-52904 Alternative education and work centers for school dropouts
54660-54669 Elementary and Secondary School Dropout Prevention Act
54720-54735 School-based Student motivation and maintenance program
58550-58562 Educational clinics
UNITED STATE CODE, TITLE 20
6301-6322 Title I programs

Management Resources:

WEB SITES

California Department of Education: <http://www.cde.ca.gov>
California Dropout Prevention Network: <http://www.edualliance.org/cdpn>
National Dropout Prevention Center: <http://www.dropoutprevention.org>

CHILD CARE AND DEVELOPMENT

The Board of Trustees desires to provide child care and development services on or near school sites which meet the developmental needs of children, provide an opportunity for parenting students to receive assistance while continuing their education, and offer a convenient child care alternative for parents/guardians in the community. The Superintendent or designee shall work cooperatively with the local childcare and development planning council and other community members to assess child care needs in the community, establish program priorities, obtain feedback on program quality, and inform parental guardians of child care options.

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 5148.1 - Child Care Services for Parenting Students)

The district's child care and development program shall support the regular education program and provide access to necessary support services.

To the extent possible, child care and development services may be made available during the regular school day, before and after normal school hours, during school vacations and inter-sessions, and on weekends to meet community needs for extended service.

These services shall be available to infants and children up to age 5 or until they enroll in kindergarten, whichever comes first.

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 admissions priorities in accordance with Education Code 8263 and 5 CCR 18106. In addition to priorities for subsidized care, priority for admissions shall be given to district students first, pending availability, and children of district employees.

(cf. 5111.1 - District Residency)

(cf. 5116 - School Attendance Boundaries)

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.

(cf. 1240 - Volunteer Assistance)

(cf. 4112.2 - Certification)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

(cf. 4112.5/4312.5 - Criminal Record Check)

The Superintendent or designee shall develop and implement an annual plan for self-evaluation of the district's child care services which conforms to state requirements.

(cf. 0500 - Accountability)

Legal Reference: (see next page)

CHILD CARE AND DEVELOPMENT (continued)*Legal Reference:*EDUCATION CODE*8200-8498 Child Care and Development Services Act, especially:**8200-8209 General provisions for child care and development services**8210-8216 Resource and Referral Program**8220-8226 Alternative Payment Program**8230-8233 Migrant Child Care and Development Program**8235-8237 State Preschool Programs**8240-8244 General child care programs**8250-8252 Programs for children with special needs**8263 Eligibility and priorities for subsidized child development services**8350-8359.1 Programs for Cal WORKs recipients**8360-8370 Personnel qualifications**8400-8409 Contracts**8460-8480 School Age Community Child Care Services**8482-8484.6 Before and After School Learning and Safe Neighborhoods Partnerships Act**8488.5-8489.9 Six By Six before- and after-school program**8493-8498 Facilities**8499-8499.7 Local planning councils**17264 New construction; accommodation of before and after school programs**54740-54749.5 Cal-SAFE program for pregnant/parenting students and their children**56244 Staff development funding*HEALTH AND SAFETY CODE*1596.70-1596.895 California Child Day Care Act**1596.90-1597.21 Day care centers**120325-120380 Immunization requirements*CODE OF REGULATIONS, TITLE 5*18000-18122 General provisions, general child care programs**18130-18136 State Preschool Program**18180-18192 Federal and State Based Migrant Programs**18200-18208 School Age Community Child Care Services Program**18210-18213 Severely Handicapped Program**18220-18231 Alternative Payment Program**18240-18248 Resource and Referral Program**18270-18279 Program quality, accountability**18290-18292 Staffing ratios**18295 Waiver of qualifications for site supervisor*CODE OF REGULATIONS, TITLE 5*18300-18308 Appeals and dispute resolution**18400-18405 CalWORKS child care services*CODE OF REGULATIONS, TITLE 22*101151-101239.2 General requirements, licensed child care centers, including:**101151-101163 Licensing and application procedures**101212-101231 Continuing requirements**101237-101239.2 Facilities and equipment**Legal Reference: continued on next page*

CHILD CARE AND DEVELOPMENT (continued)

Legal Reference (continued):

UNITED STATES CODE, TITLE 42

9831-9852a *Head Start programs*

9855-9855g *Head Start Transition Program*

9858-9858q *Child Care and Development Block Grant*

COURT DECISIONS

CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4th 892

Management Resources:

CDE MANAGEMENT BULLETINS

01-06 *The Desired Results for Children and Families System, May 31, 2001*

CDE PUBLICATIONS

Prekindergarten Learning and Development Guidelines, 2000

First Class: A Guide for Early Primary Education, 1999

Here They Come: Ready or Not!, Report of the School Readiness Task Force, 1988

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

21st Century Community Learning Centers: Providing Quality Afterschool Learning Opportunities for America's Families, September 2000

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

Department of Social Services: <http://www.dss.ca.gov>

CSBA: <http://www.csba.org>

Commission on Teacher Credentialing: http://www.ctc.ca.gov/credentialinfo/topics/child_dev.html

U.S. Department of Education: <http://www.ed.gov>

California Association for the Education of Young Children: <http://www.caeyc.org>

CHILD CARE AND DEVELOPMENT

Licensing

All district child care and development services shall be licensed by the California Department of Social Services shall operate in the district, 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. Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70 – 1597.21 and 22 CCR 101151 – 101239.2.

Program Components

The district's childcare and development program shall include, but not be limited to: (Education Code 8240; 5 CCR 18274-18278)

1. An educational program which: (5 CCR 18273)
 - a. Is developmentally, linguistically and culturally appropriate
 - b. Is inclusive of children with special needs
 - c. Encourages respect for others
 - d. Supports children's physical, cognitive, language, social and emotional development
 - e. Promotes and maintains practices that are healthy and safe

(cf. 6300 – Preschool/Early Childhood Education)

2. A staff development program which: (5 CCR 18274)
 - a. Identifies training needs
 - b. Provides written job descriptions
 - c. Provides and orientation plan for new employees
 - d. Provides staff development opportunities related to the functions in each employee's job description and identified training needs
 - e. Provides for annual written performance evaluations, unless a different frequency is specified in a collective bargaining agreement
 - f. Provides each staff member with information necessary to perform his/her duties

(cf. 4131 – Staff Development)

(cf. 4231 – Staff Development)

(cf. 4331 – Staff Development)

CHILD CARE AND DEVELOPMENT (continued)

3. Parent/guardian involvement and education, including: (5 CCR 18275)
 - a. An orientation for parents/guardians
 - b. At least two individual conferences per year
 - c. Parent/guardian meetings with program staff
 - d. An open-door policy that encourages parents/guardians to participate in the daily activities whenever possible
 - e. A parent/guardian advisory committee to advise the district on issues related to services to families and children
 - f. Sharing information regarding children's progress
4. A health and social services component which: (5 CCR 18276)
 - a. Identifies the needs of the child and the family for health or social services
 - b. Refers a child and/or family to appropriate agencies in the community as needed
 - c. Conducts follow-up procedures with the parent/guardian to ensure that the needs have been met

(cf. 5141.6 – School Health Services)

5. A community involvement component which includes soliciting community support and providing information to the community regarding available services (5 CCR 18277)
6. A nutrition component which ensures that children in the program have nutritious meals and snacks that meet federal guidelines for child care programs or the National School Lunch program (5 CCR 18278)

(cf. 0450 - Comprehensive Safety Plan)

Staffing Ratios

The child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292.

CHILD CARE AND DEVELOPMENT (continued)

Admissions

Admissions policies shall include criteria designating those children whose needs can be met by the 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 a medical assessment requirement. (5 CCR 18105; 22 CCR 101218)

Childcare and development services shall accord equal treatment and access to services in accordance with the law.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification of Individuals for Special Education)

(cf. 6164.6 - Identification and Education Under Section 504)

(cf. 5111 - Admission)

(cf. 5111.1 - District Residency)

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

Fees

Fees may be charged to families according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8263; 5 CCR 18108, 18109)

Fees shall be collected prior to providing services and shall be considered delinquent after seven calendar days. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of 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. (5 CCR 18114, 18115)

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

CHILD CARE AND DEVELOPMENT (continued)

No fees shall be assessed for families whose income level, in relation to family size, is less than the first entry in the fee schedule, whose children are enrolled because of a need for child protective services, or whose children are participating in programs prohibited by law from assessing fees. Eligibility for subsidized child care and development services shall be determined in accordance with Education Code 8263. (Education Code 8250, 8263, 54745; 5 CCR 18110)

(cf. 5148.1 - Child Care Services for Parenting Students)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. (5 CCR 18065)

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 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)

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)

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 protective services or 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)

CHILD CARE AND DEVELOPMENT (continued)

Any absence due to a reason other than the 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 parents/guardians. 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)

(cf. 5145.6 - Parent Notifications)

Rights of Parents/Guardians

At the time a child is accepted into care in a licensed child care and development center, the child's parents/guardians or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including but not limited to 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. (22 CCR 101218.1)

The Superintendent or designee shall inform parents/guardians of their right to enter the child care facility without advanced notice during normal operating hours or any time their child is receiving services in the facilities.

Records

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services which shall contain the data specified in 5 CCR 18081.

(cf. 3580 - District Records)

A developmental profile measuring the child's physical, cognitive, social and emotional development shall be completed in accordance with 5 CCR 18272. (Education Code 8203.5; 5 CCR 18272)

CHILD CARE SERVICES FOR PARENTING STUDENTS

Cal-SAFE Program

The district may provide child care and development services on or near the school site for the children of teen parents enrolled in the district's California School Age Families Education (Cal-SAFE) program. Such services shall be available whenever enrolled teen parents are participating in a school-approved activity during or outside the school day. (Education Code 54743, 54745, 54746)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 5148 - Child Care and Development Services)

Participation in the child care and development services shall be voluntary. (Education Code 54746)

No fees shall be assessed for child care and development services provided through the Cal-SAFE program. (Education Code 54745)

Children of teen parents shall be eligible for enrollment from birth to age five years or until they enroll in kindergarten, whichever occurs first, as long as the teen parent is enrolled in the district's Cal-SAFE program. (Education Code 54746, 54749)

Before a child is enrolled in the program or allowed on the school campus, he/she shall have a health evaluation form signed by a physician or the physician's designee. Health screening and immunizations shall not be required when the child's parent/guardian annually files a written request pursuant to Education Code 49451 or Health and Safety Code 120365. (Education Code 54746)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

The Superintendent or designee shall complete an intake procedure regarding each child upon entry into the program, and periodically as needed thereafter, and shall maintain a developmental profile for each child in order to design a program that meets the child's developmental needs. (Education Code 54746)

Child care and development services shall operate pursuant to applicable sections of Education Code 8200-8498, the Child Care and Development Services Act, and shall meet the health and safety requirements of 22 CCR 101151-10123.92 and 101351-101439.1. (Education Code 54746)

The child care site shall be available as a laboratory for parenting or related courses, with priority given to teen parents enrolled in the district's Cal-SAFE program. (Education Code 54746)

Legal Reference: (see next page)

CHILD CARE SERVICES FOR PARENTING STUDENTS (continued)

Legal References:

EDUCATION CODE

8200-8498 *Child Care and Development Services Act*

49451 *Exemption from physical examination*

54740-54749 *Cal-SAFE program for pregnant/parenting students and their children*

HEALTH AND SAFETY CODE

101151-101239.2 *General licensing requirements for child care centers*

101351-101439.1 *Infant care centers*

120365 *Exemption from immunization*

Management Resources:

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

BEFORE/AFTER SCHOOL PROGRAMS

The Governing Board desires to provide before-school and/or after-school enrichment programs that support the regular education program and provide safe, constructive alternatives for students. In order to increase academic achievement of participating students, the content of such programs shall be aligned with the district's vision and goals for student learning, its curriculum, and district and state academic standards and shall be integrated with other learning support activities.

The establishment of any program shall be approved by the Board and the principal of each participating school. (Education Code 8421, 8482.3)

The program shall include academic and enrichment elements in accordance with law and administrative regulation. In addition, the program may include support services that reinforce the educational component and promote student health and well-being, including, but not limited to, drug and violence prevention programs, counseling/guidance services, character education, and programs that promote parent/guardian involvement and family literacy.

No fee shall be charged for participation in the program.

BEFORE/AFTER SCHOOL PROGRAMS

21st Century High School After School Safety and Enrichment for Teens (ASSETs) Program

Note: The following section is for use by districts providing before-school and/or after-school programs funded by the 21st Century High School After School Safety and Enrichment for Teens Program (ASSETs) (Education Code 8420-8428).

The district's ASSETs Program may serve students in grades 9-12. (Education Code 8421)

When feasible, priority shall be placed on establishing programs that serve students in schools that are ranked in decile 1-3 on the most recent Academic Performance Index (API).

(cf. 0520.1 – High Priority Schools Grant Program)
(cf. 0520.4 – Quality Education Investment Schools)

The program shall be operated in accordance with the following:

1. Program Elements

- a. The program shall include an academic assistance element that is aligned with the regular academic program and includes, but is not limited to, at least one of the following: (Education Code 8421)

1. Preparation for the high school exit examination
2. Tutoring

(cf. 6162.52 – High School Exit Examination)

3. Homework assistance
4. College preparation, including information about the Cal Grant program pursuant to Education Code 69530-69547.9

- b. The program shall include an enrichment element that may include, but is not limit to, community service, career technical education, job readiness, opportunities for mentoring and tutoring younger students, service learning, arts, computer and technology training, physical fitness, and recreation activities. (Education Code 8421)

(cf. 6142.4 – Service Learning/Community Service Classes)

- c. The program shall include a nutritional snack and a physical activity element. (Education Code 8423)

BEFORE/AFTER SCHOOL PROGRAMS (continued)

- d. The Superintendent or designee shall assess students' preferences for program activities. (Education Code 8423)
2. Location of Program
 - a. The district's program may operate on one or multiple school sites or at another location approved by the California Department of Education (CDE). (Education Code 8421)
 - b. If applying for a location off school grounds, the Superintendent or designee shall ensure that safe transportation is available for students, if necessary, and the program is at least as available and accessible as similar programs conducted on school sites. (Education Code 8421)
3. Hours of Operation
 - a. The district's program shall operate a minimum of 15 hours per week. (Education Code 8421)
 - b. The district's program may be operated either after school only or for any combination of after school, before school, weekends, summer, intersession, and vacations. (Education Code 8422)

Reports

The Superintendent or designee shall annually submit to the CDE outcome-based data on academic performance, attendance, and positive behavioral changes, including, but not limited to: (Education Code 8427, 8482.3, 8484)

1. Participating student's school day attendance on an annual basis
2. Program attendance
3. One or more of the following measures of program effectiveness based on the individual program's focus:
 - a. Positive behavioral changes, as reported by school day teachers or program staff who directly supervise students

(cf. 6162.51 – Standardized Testing and Reporting Progr)

- b. Standardized Testing and Reporting (STAR) test scores
- c. Homework completion rates as reported by school day teachers or program staff who directly supervise students

BEFORE/AFTER SCHOOL PROGRAMS (continued)

- d. Skill development as reported by school day teachers or program staff who directly supervise students
 - e. Any other measures developed by the CDE
4. To the extent possible, performance of participating students on the high school exit exam and graduation rates

(cf. 0500 - Accountability)

AT-RISK STUDENTS

The Board of Trustees recognizes that personal, social, health and economic conditions of children and families sometimes place students at greater risk of school failure. The Board believes, however, that each student can succeed in meeting district academic standards with an appropriate educational program and support services.

(cf. 6011 - Academic Standards)
(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.5 - Elementary/Middle School Graduation Requirements)

The Superintendent or designee shall develop strategies to address the needs of district students at risk. District assessments and ongoing classroom evaluations shall be used to identify students performing below grade level or at risk of failing to meet district standards. The primary emphasis shall be on prevention and early intervention. The Superintendent or designee also shall ensure that school staff is prepared to implement intervention strategies as needed or to make appropriate referrals.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5136 - Gangs)
(cf. 5141.23 - Infectious Disease Prevention)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Child Health and Disability Prevention Program)
(cf. 5141.4 - Child Abuse Reporting Procedures)
(cf. 5141.41 - Child Abuse Prevention)
(cf. 5141.52 - Suicide Prevention)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 5147 - Dropout Prevention)
(cf. 6162.5 - Student Assessment)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.5 - Student Study Teams)
(cf. 6164.6 - Identification and Education under Section 504)

Legal Reference: (see next page)

AT-RISK STUDENTS (continued)

Legal Reference:

EDUCATION CODE

8800-8807 *Healthy Start support services for children*

8900-8902 *Pregnant minors program*

11500-11506 *Programs to encourage parent involvement*

32230-32239 *School violence reduction programs*

35160 *Authority of governing boards*

35183 *Gang-related apparel*

44049 *Report of alcohol or controlled substance abuse*

48260-48273 *Truancy*

48400-48454 *Continuation education*

48630-48645 *Opportunity schools*

48660-48666 *Community day schools*

49400-49409 *Student health*

49450-49457 *Physical examinations of students*

49600-49604 *Educational counseling, including:*

49602 *Confidentiality of student information*

49604 *Suicide prevention training for school counselors*

51266-51266.5 *Gang and substance abuse prevention curriculum*

51268 *Collaboration re drug, alcohol and tobacco prevention*

51745-51745.3 *Independent study programs*

52001-52049 *School improvement programs*

52200-52212 *Gifted and Talented Student Program*

52800-52904 *School-Based Program Coordination Act*

54400-54425 *Programs for disadvantaged children*

54440-54445 *Migrant children*

54685-54686.2 *Early Intervention for School Success Program*

54720-54734 *School-Based Student Motivation and Maintenance Program and Dropout Recovery Act*

56000-56001 *Special education programs*

56302 *Identification and assessment of needs for individuals with disabilities*

58730-58736 *Gang risk intervention programs*

HEALTH AND SAFETY CODE

11802 *Joint school-community alcohol abuse primary education and prevention program*

11965.5-11967.5 *School-community primary prevention program*

120325-120380 *Immunizations*

121475-121520 *Tuberculosis tests for students*

124025-124110 *Child health and disability prevention program*

PENAL CODE

11164-11174.3 *Child abuse and neglect reporting*

Legal Reference continued: (see next page)

AT-RISK STUDENTS (continued)

Legal Reference continued

WELFARE AND INSTITUTIONS CODE

4343-4360 Primary intervention programs - mental health

4370-4390 School-based early mental health intervention and prevention

18975-18979 Child abuse prevention training

18986.40-18986.46 Interagency children's services programs

CODE OF REGULATIONS, TITLE 5

11900-11935 Healthy Start program

PUBLIC LAW 107-110

1001-1908 Title 1 programs

AT-RISK STUDENTS

The Superintendent or designee shall identify factors that place students at risk, including but not limited to poverty, homelessness, neglect, abuse, poor health and nutrition, pregnancy, potential language and cultural barriers, substance abuse, gang membership or delinquency, changing family structure, cognitive, emotional and other disabilities, and behavioral problems.

District strategies for addressing the needs of at-risk students may include but are not limited to:

1. Instruction that is responsive to individual student needs, interests and learning styles

(cf. 6000 - Concepts and Roles)
(cf. 6151 - Class Size)
(cf. 6159 - Individualized Education Program)
(cf. 6164.6 - Identification and Education under Section 504)

2. Curricula and instructional materials that are relevant and meaningful for students

(cf. 6030 - Integrated Academic and Vocational Instruction)
(cf. 6141 - Curriculum Development and Evaluation)

3. Integration of the core and supplemental educational programs

(cf. 0420.1 - School-Based Program Coordination)
(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)
(cf. 6171 - Title I Programs)
(cf. 6172 - Gifted and Talented Student Program)
(cf. 6174 - Education for English Language Learners)
(cf. 6175 - Migrant Education Program)

4. Establishment and maintenance of a safe, positive school climate

(cf. 0450 - Comprehensive Safety Plan)
(cf. 5137 - Positive School Climate)
(cf. 5144 - Discipline)

5. Availability of effective support services

(cf. 1020 - Youth Services)
(cf. 5141.6 - Student Health and Social Services)
(cf. 6164.2 - Guidance/Counseling Services)

6. Collaboration with other agencies and community organizations in the delivery of services for children and families

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

AT-RISK STUDENTS (continued)

7. Parent support and involvement and/or parent education

(cf. 6020 - Parent Involvement)

8. Efforts to increase student attendance

(cf. 5113 - Absences and Excuses)

9. Availability of resources targeted to meet the needs of at-risk students

(cf. 3100 - Budget)

10. Staff development on the identification of student needs and strategies for addressing those needs

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

11. Adult-student connections and activities to help students develop a sense of belonging at school

(cf. 1240 - Volunteer Assistance)

(cf. 6164.5 - Student Study Teams)

12. Additional instructional assistance, especially efforts that can accelerate learning to help students meet grade-level standards

13. Alternative programs

(cf. 6158 - Independent Study)

(cf. 6181 - Alternative Schools)

(cf. 6182 - Opportunity School/Class/Program)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

14. Ongoing assessment of student outcomes and accountability for student learning

15. Regular evaluation of the effectiveness of programs designed to assist at-risk students

(cf. 6190 - Evaluation of the Instructional Program)

(cf. 9000 - Role of the Board)

AT-RISK STUDENTS (continued)

16. Advocacy at the local, state and/or national levels to improve the conditions of children and families