

INDIVIDUALIZED EDUCATION PROGRAM

The Board of Trustees desires to provide educational alternatives that enable students with disabilities to reach their full academic potential. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

The Superintendent or designee shall develop administrative regulations regarding the identification, assessment, and placement of students with disabilities, as well appointment of the individualized education program (IEP) team and the content of the IEP.

(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.6 - Identification and Education under Section 504)

<p>Note: AB 804 (Ch. 734, Statutes of 2001) added Education Code 56055 which provides that a foster parent, to the extent permitted by federal law, shall have the same rights relative to his/her foster child's education as a parent/guardian. Because the rights granted to parents/guardians under the Individuals with Disabilities Education Act (IDEA) are often complex, legal counsel should be consulted as appropriate.</p>

To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 3541.2 - Transportation for Students with Disabilities)
(cf. 4112.23 - Special Education Staff)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)
(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

Legal Reference: (see next page)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Legal Reference:

EDUCATION CODE

51225.3 *Requirements for high school graduation and diploma*
56055 *Rights of foster parents pertaining to foster child's education*
56136 *Guidelines for low incidence disabilities areas*
56195.8 *Adoption of policies*
56321 *Development or revision of IEP*
56321.5 *Notice to include right to electronically record*
56340.1-56346 *Instructional planning and individualized education program*
56350-56352 *IEP for visually impaired students*
56380 *IEP reviews; notice of right to request*
56390-56393 *Certificate of completion, special education*
56500-56508 *Procedural safeguards*
60640-60649 *Standardized Testing and Reporting Program*
60850 *High school exit examination, students with disabilities*

FAMILY CODE

6500-6502 *Age of majority*

GOVERNMENT CODE

7572.5 *Seriously emotionally disturbed child, expanded IEP team*

CODE OF REGULATIONS, TITLE 5

852-853 *Standardized Testing and Reporting Program, accommodations for students with disabilities*
1216-1218 *High School Exit Examination, accommodations for students with disabilities*
3021-3029 *Identification, referral and assessment*
3040-3043 *Instructional planning and the individualized education program*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*

1400-1487 *Individuals with Disabilities Education Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.756 *Individuals with Disabilities Education Act*

COURT DECISION

Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 2003 US.App. LEXIS 1395
Sacramento City School District v. Rachel H., 14 F.3d 1398 (9th Cir. 1994)

Management Resources:

FEDERAL REGISTER

34 CFR 300.a *Appendix A to Part 300 - Questions and Answers*
34 CFR 300.a1 *Attachment I: Analysis of Comments and Changes*

WEB SITES

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

US Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/offices/OSERS>

INDIVIDUALIZED EDUCATION PROGRAM

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each Student with a disability within district jurisdiction. (34 CFR 300.342)

Members of the IEP Team

The district shall ensure that the IEP team for any Student with a disability shall include at least the following members: (20 USC 1414(d)(1); 34 CFR 300.344; Education Code 56341)

1. One or both of the Student's parents/legal guardians, and/or a representative selected by the parent/guardian
2. If the Student is or may be participating in the regular education program, at least one regular education teacher. If more than one regular education teacher is providing instructional services to the student, the district may designate one such teacher to represent the others.
3. At least one special education teacher or, where appropriate, at least one special education provider for the Student
4. A representative of the district, who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of Students with disabilities
 - b. Knowledgeable of the general education curriculum
 - c. Knowledgeable about the availability of district and/or SELPA resources

(cf. 0430 - Comprehensive Local Plan for Special Education)

5. An individual who can interpret the instructional implication of assessment results.

This individual may already be a member of the team as described above or in item #6 below.

<p>Note: Pursuant to Education Code 56341 and 34 CFR 300.344, the determination as to whether an individual has "knowledge or special expertise" must be made by the party (either the district or parent) who invited the individual to the IEP meeting. According to the Analysis of Comments to the regulations, FR 12585 (34 CFR 300.a1), individuals with knowledge of the child could include neighbors, friends or advocates who, in the judgment of the parents, are able to advise or assist them at the meeting.</p>
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INDIVIDUALIZED EDUCATION PROGRAM (continued)

6. At the discretion of the parent/legal guardian or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team. (Education Code 56341)

7. Whenever appropriate, the student with the disability

8. For transition service participants:

- a. The student, of any age, with the disability if the purpose of the meeting is the consideration of the student's transition services needed to assist the student in reading those goals pursuant to 34 CFR 300-320(b)

If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.

- b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for transition services

If a representative does not attend the meeting, the district shall take other steps to obtain participation of the agency in the planning of any transition services.

9. For students with suspected learning disabilities, a person other than the student's regular teacher who has observed the student's educational performance in an appropriate setting and a person qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist or remedial reading teacher

In accordance with 34 CFR 300-310, at least one team member other than the student's regular classroom teacher shall observe the student's academic performance in the regular classroom setting.

10. For students who have been placed in a group home by the juvenile court, a representative of the group/home

If a student with a disability is identified as potentially requiring mental health services, the district shall request the participation of the county mental health program in the IEP team meeting.

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In addition, any of the following may participate, as appropriate:

1. The program specialist, school psychologist, school nurse, school social worker, counselor, or other student services worker who has conducted an assessment of the student, when the assessment is significant to the development of the IEP
2. Any other person whose competence is needed because of the nature and extent of the student's disability

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

IEP Team Meetings: Parent/Guardian Notice and Attendance

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian consents and the district agrees, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting.

The Superintendent or designee shall take steps to ensure that one or both of the parents/legal guardians of the student with a disability are present at each IEP meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. The Superintendent or designee shall send parents/guardians notices of IEP team meetings that:

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform parents of provisions relating to their right to have other individuals on the IEP team, other individuals who have knowledge or special expertise about the student
4. For students beginning at age 16 (or younger than 16 if deemed appropriate by the IEP team):
 - a. Indicate that the purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 556345.1 and 20 USC 1414(d)(1)(A)(i)(VIII)
 - b. Indicate that the district will invite the student to the IEP team meeting
 - c. Identify any other agency that will be invited to send a representative

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At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request and before any IEP meeting. Upon receipt of an oral or written request, the district shall provide complete copies of the records within five business days.

If no parent/guardian can attend, the Superintendent or designee may use other methods to ensure parent/guardian participation such as video conferencing or individual or conference phone calls.

(34 CFR 300.345)

An IEP meeting may be conducted without a parent/legal guardian in attendance if the district is unable to convince the parent/legal guardian that he/she should attend. In this case, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (34 CFR 300.345)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/legal guardian and any response received
4. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

Note: Education Code 56341 grants the parent/legal guardian, district, SELPA or county office the right to electronically record the proceedings of IEP meetings. Audiotape recordings made by a district, SELPA or county office are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 USC 1232g). The notice of parental rights attached to a student's assessment plan and provided at each IEP team meeting must include this right.

Parents/legal guardians and the district shall have the right to audiotape the proceedings of IEP meetings, provided members of the IEP team are notified in writing of this intent at least 24 hours before the meeting. If the district gives notice of intent to audiotape a meeting, and if the parent/legal guardian objects or refuses to attend because the meeting would be audiotaped, the meeting shall not be audiotaped. Parents/legal guardians also have the right to: (Education Code 56341)

1. Inspect and review the audiotapes
2. Request that the audiotapes be amended if the parent/legal guardian believes they contain information that is inaccurate, misleading or in violation of the student's privacy rights or other rights

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3. Challenge, in a hearing, information that the parent/legal guardian believes is inaccurate, misleading, or in violation of the student's privacy rights or other rights

The district shall take necessary action to ensure that the parent/guardian understand the proceedings at a meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English.

The district shall give the parents/guardians of a student with disabilities a copy of his/her child's IEP at no cost.

Contents of the IEP

The IEP shall be a written statement determined in a meeting of the IEP team. It shall include, but not be limited to, all of the following: (20 USC 1414(d); 34 CFR 300.347; Education Code 56345, 56345.1)

1. A statement of the present levels of the student's academic achievement and functional performance, including the manner in which

The student's disability affects his/her involvement and progress in the general curriculum (e.g., the same curriculum as for non-disabled students); for students with disabilities who take alternate assessments aligned to alternate achievement standards.

2. A statement of measurable annual goals, including academic and functional goals, designed to do the following:

- a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general curriculum
- b. Meet each of the student's other educational needs that result from the student's disability
- c. For students with disabilities who take alternative assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

3. A description of the manner in which the progress of the student toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards

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4. A statement of the specific special educational instruction and related services and supplementary aids and services, based on peer-reviewed research, to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
 - c. Be educated and participate with other students with disabilities and non disabled students in the activities described in Education Code 56345(a)

5. An explanation of the extent, if any, to which the student will not participate with non-disabled students in the regular class and in the activities described in item 4 above

Note: Pursuant to 20 USC 1412(a), students with disabilities must be included in state and district assessments, such as the high school exit examination (Education Code 60850) and the Standardized Testing and Reporting Program (Education Code 60640-60647), with appropriate accommodations. Permitted and prohibited accommodations for the high school exit examination are specified in 5 CCR 1216-1218; see AR 6162.52 - High School Exit Examination. 5 CCR 853 lists specific accommodations that may be made on the STAR test; see AR 6162.51 - Standardized Testing and Reporting Program.

If the IEP team determines that a student with disabilities should be exempted from any statewide assessment, 34 CFR 300.347 requires that the IEP contain a statement as to why the assessment would not be appropriate for the student and what alternative assessment will be provided.

6. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district wide assessments.

If the IEP team determines that the student shall take an alternate assessment on a particular state or district wide assessment, a statement of the following:

- a. The reason that the student cannot participate in the regular assessment

- b. The reason that the particular alternative assessment selected is appropriate for the student

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

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7. The projected date for the beginning of the services and modifications described in item # 4 above and the anticipated frequency, location and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, and updated annually thereafter, the following shall be included:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
 - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, pursuant to 34 CFR 300.110 - 300.284 that will transfer to the student upon reaching age 18

Note: Former item #11 was deleted as a result of SB 2X (Ch. 1, First Extraordinary Session, Statutes of 1999) which repealed Education Code 51215. Education Code 51215 had required a determination as to whether differential proficiency standards should be developed for students with disabilities. However, Education Code 56345 was not amended at the same time; thus that section still requires IEPs to reflect the requirements of Education Code 51215. It is likely that clean-up legislation will be pursued to correct this problem. In the meantime, federal law and regulations (20 USC 1412(a); 34 CFR 300.347) require each student's IEP to contain statements of measurable annual goals and the extent to which the student will participate in state and district assessments, which would probably satisfy the state law requirements. See items #2 and #5 above.

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For students in grades 9-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed standards required for graduation

(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.11 - Alternative Credits Toward Graduation)

2. Linguistically appropriate goals, objectives, programs and services for students whose primary language is not English
3. Extended school year services when the IEP determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education

(cf. 6177 - Summer School)

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4. Provision for transition into the regular education program if the student is to be transferred from a special class or center, or nonpublic, nonsectarian school, into a regular education program in a public school for any part of the school day

The IEP shall include descriptions of activities intended to:

- a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
- b. Support the transition of the student from the special education program into the regular education program

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6178 - Vocational Education)

(cf. 6181 - Alternative Schools)

5. Specialized services, materials and equipment for students with low incidence disabilities, consistent with the guidelines of Education Code 56136

Development, Review and Revision of the IEP

In developing or revising the IEP, the IEP team shall consider the following: (20 USC 1414(d); 34 CFR 300.346; Education Code 56341.1, 56345)

1. The strengths of the student and the concerns of the parents/legal guardians for enhancing the education of their child
2. The results of the initial assessment or most recent assessment of the student
3. The academic development, and functional needs of the student
4. In the case of a student whose behavior impedes his/her learning or that of others, if appropriate, positive behavioral interventions, strategies and supports to address that behavior
5. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP

Note: Education Code 56352 further details the assessment of the student's appropriate reading medium.
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6. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media, that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.
7. The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, including the following: (Education Code 56345)

- a. The student's primary language mode and language, which may include the use of spoken language with or without visual cues and/or the use of sign language
 - b. The availability of a sufficient number of age, cognitive and language peers of similar abilities which may be met by consolidating services into a local plan area-wide program or providing placement pursuant to EC 56361
 - c. Appropriate, direct and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with the existing law regarding teacher training requirements
 - d. Services necessary to ensure communication-accessible academic instructions, school services and extracurricular activities consistent with the federal Vocational Rehabilitation Act and the federal Americans with Disabilities Act
8. Whether the student requires assistive technology devices and services

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If, in considering the special factors in items #1-8 above, the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order to receive a free and appropriate public education, the IEP team must include a statement to that effect in the student's IEP. (34 CFR 300.346; Education Code 56341.1) All IEP's shall be reviewed on an annual basis for student progress, appropriateness of placement, and to include any necessary revisions.

The IEP team shall review the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and that the team revises the IEP, as appropriate to address the conditions specified below:

The Superintendent or designee shall ensure that the IEP team:

1. Reviews the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and the appropriateness of the placement
2. Revises the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate
 - b. The results of any reassessment conducted pursuant to Education Code 56381.
 - c. Information about the student provided to or by the parents/legal guardians regarding review of evaluation data pursuant to Education Code 56381(b) and 34 CFR 305(a)
 - d. The student's anticipated needs
 - e. Other relevant matters
3. Considers special factors for students with additional behavior or communication

The IEP team shall also meet:

- a. Whenever the student has received an initial formal assessment, and when desired, when the student receives any subsequent formal assessment

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- b. Upon request by the parent/guardian or teacher to develop, review or revise the IEP. If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP.

As a member of the IEP team, the regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the IEP, including assisting in the determination of:

1. Appropriate positive behavioral interventions, supports, and other strategies for the student
2. Supplemental aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with 34 CFR 300.320. To the extent possible, the district shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student.

The student shall be allowed to provide confidential input to any representative of his/her IEP team.

If a student with disabilities residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the district shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

(cf. 6173.1 – Education for Foster Youth)

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of all of the following: (Education Code 56043)

1. The case progress
2. The continuing need for out-of-home placement
3. The extent of compliance with the IEP
4. Progress toward alleviating the need for out-of-home care

When a change is necessary to a student IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the district may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of

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any such changes. Upon request, the district shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3(D))

Timelines for the IEP and for the Provision of Service

At the beginning of each school year, the district shall have an IEP in effect for each student with a disability within district jurisdiction.

The district shall ensure that a meeting to develop an initial IEP is conducted within 30 days of a determination that a student needs special education and related services. The district shall also ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP.

An IEP required as a result of an assessment of the student shall be developed within 60 days (not counting days between the student's regular school sessions, terms or days of school vacation in excess of five school days) from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension.

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year for a student for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of school vacations, the 60-day time limit shall recommence on the date that student's school days reconvene.

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request.

A regular education or special education teacher may request a review of the classroom assignment of a special education student by submitting a written request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need to change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

The district shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The district shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the

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specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP.

Before providing special education and related services, the district shall seek to obtain informed consent pursuant to 20 USC 1414(a)(1). If the parent/guardian refuses to consent to the initiation of services, the district shall not provide the services utilizing the due process hearing procedures pursuant to 20 USC 1415(f). If the parent/guardian does not consent to all of the components of the IEP, then those components to which they parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student.

If the parent/guardian refuses all services in the IEP after having consented to those services in the past, the district shall file a request for a due process hearing. If the district determines that a part of the proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the district agree otherwise.

Transfer Students

To facilitate a transfer student's transition, the district will take reasonable steps to promptly obtain the records of a student with disabilities transferring into the district.

If a student with a disability transfers to this district from a district within this district's SELPA during the school year, this district shall continue, without delay, to provide services comparable to those described in the existing IEP, unless the parent/guardian and district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325)

If a student with a disability transfers to this district from a California district outside of this district's SELPA during the school year, the district shall provide the student with a free appropriate public education, including services comparable to those described in the previous district's IEP. Within 30 days, the district shall, in consultation with the parents/guardians, adopt the other district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education 56325)

If a student with a disability transfers to this district from a district out of state during the school year, the district shall provide the student with a free appropriate public education, including services comparable to the out of state district's IEP, in consultation with the parent/guardian, until such time as the district conducts an assessment, if the district determines such an assessment is necessary, and develops a new IEP, if appropriate. (Education Code 56325)

To facilitate the student's transition, the district shall take reasonable steps to promptly obtain the records of a student with disabilities transferring into this district, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325)

INDIVIDUALIZED EDUCATION PROGRAM (continued)**Due Process/Mediation**

Note: Education Code 56346 requires the implementation, without delay, of all components of the IEP to which the parent/legal guardian has consented. If the parent/legal guardian does not consent to a necessary part of the proposed program, the district must initiate a due process hearing or hold a prehearing mediation conference.

A student shall not be required to participate in all or part of any special education program unless the parent/legal guardian is first informed in writing of the facts that make participation in the program necessary or desirable and the contents of the IEP, and the parent/legal guardian consents, in writing, to all or part of the IEP after receiving this notice. If the parent/legal guardian does not consent to all of the components of the IEP, then those components of the IEP to which the parent/legal guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of the proposed IEP to which the parent/legal guardian does not consent is necessary in order to provide a free and appropriate public education to the student, he/she shall either initiate a due process hearing or a pre-hearing mediation conference with the state pursuant to Education Code 56500.3. While the due process hearing or pre-hearing mediation conference is pending, the student shall remain in his/her current placement unless the parent/legal guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

While a due process hearing is pending, the Superintendent or designee may choose to meet informally with the parent/legal guardian pursuant to Education Code 56502 or may hold a mediation conference pursuant to Education Code 56503. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. (Education Code 56346)

Parent/Legal Guardian Notice

The Superintendent or designee shall send parents/legal guardians notice of the IEP team meetings early enough to ensure that they will have an opportunity to attend. This notice shall: (34 CFR 300.345)

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1. Indicate the purpose, time and location of the meeting
2. Indicate who will be in attendance at the meeting

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. Inform the parents/legal guardians of the provisions of 34 CFR 300.344(a)(6) and (c), relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student
4. Identify any other local agency that is likely to be responsible for providing or paying for transition services in accordance with 34 CFR300.344
5. For students age 14, or younger if appropriate:
 - a. Indicate that a purpose of the meeting will be the development of a statement of the transition service needs of the student pursuant to 34 CFR 300.347(b)(1)
 - b. Indicate that the district will invite the student to the IEP meeting
6. For students age 16, or younger if appropriate:
 - a. Indicate that the purpose of the meeting is the consideration of needed transition services for the student as required by 34 CFR 300.347(b)(2)
 - b. Indicate that the district will invite the student to the IEP meeting
 - c. Identify any other agency that will be invited to send a representative

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Procedural Safeguards/Due Process Hearings

Note: Education Code 56195.8 **mandates** all entities providing special education to adopt policy on procedural safeguards, and Education Code 56500.1 requires entities providing special education to establish and maintain all procedural safeguards of the federal Individuals with Disabilities Education Act. For California law related to due process rights and due process hearing rights and procedures, see Education Code 56501-56506 and 5 CCR 3082. For federal due process procedure requirements, see 34 CFR 300.500-300.517. Pursuant to 5 CCR 3080, due process hearing procedures are to be used for the resolution between a parent/legal guardian and a district or SELPA regarding the identification, assessment or placement of a special education student.

Districts using the following paragraphs should revise them for consistency with the policy and regulations of the SELPA in which the district participates.

In order to protect the rights of students with disabilities and their parents/legal guardians, the district shall follow all procedural safeguards as set forth in law.

Parents/legal guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

(cf. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

The Superintendent or designee shall represent the district in any due process hearings conducted with regard to district students and shall provide the Board of Trustees with the results of these hearings.

Complaints for Special Education

Note: A complaint, which can be made by anyone, is an allegation of a violation of state or federal law.

Complaints concerning compliance with state or federal law regarding special education shall be addressed in accordance with the district's uniform complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference: (see next page)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Legal Reference:

EDUCATION CODE

56000 Education for individuals with exceptional needs

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56381 Identification and referral, assessment, instructional planning, implementation, and review

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56507 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3089 Regulations governing special education

4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1491 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.10-99.22 Inspection, review and procedures for amending education records

104.36 Procedural safeguards

300.500-300.517 Due process procedures for parents and children

Management Resources:

WEB SITES

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

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may agree to meet informally to resolve any issue(s) relating to the identification, assessment or education and placement of the student. The Superintendent or designee shall have the authority to resolve the issue(s). (Education Code 56502)

In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3.

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

If either of these processes fails to resolve the issue(s), either party may file for a state-level due process hearing as described below.

Due Process Complaints

A parent/guardian, the district, and/or a student who is emancipated or a ward or dependent of the court may initiate due process hearing procedures whenever: (Education Code 56501)

1. There is a proposal to initiate or change the identification, assessment or educational placement of the student or the provision of a free, appropriate public education to the student.
2. There is a refusal to initiate or change the identification, assessment or educational placement of the student or the provision of a free, appropriate public education to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.403(b).

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying:

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student
3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the parents/guardians at the time

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint specifying: (20 USC 1415(c)(1); 34 CFR 300.508):

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt, send a response specifically addressing the issues in the complaint. (20 USC 1415(c)(1); 34 CFR 300.508)

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Due Process Hearing Rights

Due process hearing rights include: (34 CFR 300.509; Education Code 56501, 56505, 56506; 5 CCR 3082)

1. The right to a mediation conference pursuant to Education Code 56500.3
2. The right to request a mediation conference at any point during the hearing process

The mediation process shall not be used to deny or delay a parent/guardian's right to a due process hearing or to deny any other rights afforded under the Individuals with Disabilities Education Act.

3. The right to examine student records and receive copies within five days of request

(cf. 5125 - Student Records)

4. The right to a fair and impartial administrative hearing at the state level before a person knowledgeable and under contract in accordance with law
5. The right to have the student who is the subject of the state hearing present at the hearing
6. The right to open the state hearing to the public
7. The right to call witnesses, including adverse witnesses, and to cross-examine witnesses
8. The right to compel the attendance of witnesses, including the right to issue subpoenas
9. The right to have witnesses excluded from the hearing
10. Because hearings are conducted in English, the right to an interpreter, when the primary language of a party to a hearing is other than English, or other mode of communication
11. At the hearing, the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

12. If the hearing officer conducts all or part of a hearing by electronic means, the right of each participant in the hearing to participate in and hear the entire proceeding while it is taking place and to observe exhibits
13. The right to written or, at the option of the parent/guardian, electronic findings of facts and decisions

The district shall provide this record and findings of fact to the parent/guardian at no cost.
14. The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of the issues
15. At least five business days prior to the hearing, the right to receive from other parties to the hearing a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, including all completed assessments and recommendations based on those assessments

Parents/guardians or emancipated students have the following additional due process rights:
(Education Code 56506; 5 CCR 3082)

1. The right to receive written notice of parent/guardian rights pursuant to Education Code 56506
2. The right to initiate referral of a child for special education pursuant to Education Code 56303
3. The right to obtain an independent educational assessment pursuant to Education Code 56329
4. The right to participate in the development of the individualized education program (IEP) and be informed of the availability under state and federal law of free and appropriate public education and of all available alternative programs, both public and nonpublic

(cf. 6159 - Individualized Education Program)

5. The right to provide written parental consent pursuant to Education Code 56321 before any assessment of the student is conducted unless the district or Special Education Local Plan Area prevails in a due process hearing relating to such assessment

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Informed parental consent need not be obtained in the case of a reassessment of the student if the district can demonstrate that reasonable measures have been taken to obtain consent and that the student's parent/guardian has failed to respond.

6. The right to provide written parental consent pursuant to Education Code 56321 before the student is placed in a special education program
7. The right to determine whether the due process hearing will be open or closed to the public

Prior Written Notice

The Superintendent or designee shall send to parents/guardians of a student with a disability a prior written notice within a reasonable time before: (Education Code 56500.4, 56500.5; 20 USC 1415(c); 34 CFR 300.503)

1. The district initially refers the student for assessment
2. The district proposes to initiate or change the student's identification, evaluation, educational placement or the provision of a free, appropriate public education
3. The district refuses to initiate or change the identification, evaluation or educational placement of the student or the provision of a free and appropriate public education
4. The student graduates from high school with a regular diploma

This notice shall include: (20 USC 1415(c); 34 CFR 300.503)

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of any other options that the district considered and why those options were rejected
4. A description of each evaluation procedure, test, record or report the district used as a basis for the proposed or refused action
5. A description of any other factors relevant to the district's proposal or refusal
6. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the description of procedural safeguards can be obtained

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

7. Sources for parents/guardians to obtain assistance in understanding these provisions

(cf. 5145.6 - Parental Notifications)

Students with disabilities and their parents/guardians shall be provided written notice of their rights in language easily understood by the general public and in the primary language of the parent/guardian or other mode of communication used by the parent/guardian, unless to do so is clearly not feasible. The notice shall include, but not be limited to, those rights prescribed by Education Code 56341. (Education Code 56341, 56506; 34 CFR 300.503)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication
2. The parent/guardian understands the contents of the notice
3. There is written evidence that items #1 and #2 have been satisfied

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with a disability once a school year and:

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint and upon receipt of first due process complaint in a school year
3. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct which constitutes a change of placement
4. Upon request by a parent/guardian

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

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

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

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504)

1. Independent educational evaluation
2. Prior written notice
3. Parental consent
4. Access to educational records
5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures
6. The availability of mediation
7. The student's placement during the pendency of any due process complaint
8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parent/guardians of students in private schools at public expense

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
11. State-level appeals
12. Civil actions, including the time period in which to file those actions
13. Attorney's fees

This notice shall also include the rights and procedures contained in Education Code 56500-56509 including information on the procedures for requesting an informal meeting, pre-hearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; and the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341. (Education Code 56321, 56321.5)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting.

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Note: Education Code 56195.8 **mandates** entities providing special education to adopt a policy related to nonpublic, nonsectarian services for which they may contract, pursuant to Education Code 56365, when no appropriate public education program is available to meet an student's special education needs.

The following policy and regulation should be revised to comply with the policies and regulations of the Special Education Local Plan Area (SELPA) in which the district operates.

The Board of Trustees may contract with state-certified nonpublic, nonsectarian schools or agencies to provide special education services or facilities when an appropriate public education program is not available.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

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

When entering into agreements with nonpublic, nonsectarian schools or agencies, the Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The IEP team shall remain accountable for monitoring the progress of students placed in nonpublic, nonsectarian programs towards the goals identified in each student's IEP.

Legal Reference: (see next page)

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION (continued)**

Legal References:

EDUCATION CODE

- 56034-56035 *Definitions of nonpublic, nonsectarian school and agency*
- 56042 *Placement not to be recommended by attorney with conflict of interest*
- 56101 *Waivers*
- 56163 *Certification*
- 56168 *Responsibility for education of student in hospital or health facility school*
- 56195.8 *Adoption of policies*
- 56360-56370 *Implementation of special education*
- 56711 *Computation of state aid*
- 56740-56743 *Apportionments and reports*
- 56760 *Annual budget plan; service proportions*
- 56775.5 *Reimbursement of assessment and identification costs*

GOVERNMENT CODE

- 7570-7588 *Interagency responsibilities for providing services to children with disabilities, especially:*
- 7572.55 *Seriously emotionally disturbed child; out-of-state placement*

FAMILY CODE

- 7911-7912 *Interstate compact on placement of children*

WELFARE AND INSTITUTIONS CODE

- 362.2 *Out-of-home placement for IEP*
- 727.1 *Out-of-state placement of wards of court*

CODE OF REGULATIONS, TITLE 5

- 3001 *Definitions*
- 3061-3069 *Nonpublic, nonsectarian school and agency services*

UNITED STATES CODE, TITLE 20

- 1400-1487 *Individuals with Disabilities Education Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

- 300.400-300.487 *Children with disabilities in private schools*

COURT DECISIONS

- Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997*

Management Resources:

CDE LEGAL ADVISORIES

- 0317.99 *Nonpublic School/Agency Waivers and Reimbursement to Parents*

FEDERAL REGISTER

- 34 CFR 300.a *Appendix A to Part 300 - Questions and Answers*
- 34 CFR 300.a1 *Attachment 1: Analysis of Comments and Changes*

WEB SITES

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

US Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/offices/OSERS>

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Placement and Services

Note: As amended in Register 99, No. 13, 5 CCR 3060 and 3061 specify new requirements regarding special education classes offered in nonpublic, nonsectarian schools and agencies. These requirements detail the staffing requirements for instructors, including the credentials that instructors must hold; the eligibility requirements for such credentials; and the number of instructors required per school or agency. Pursuant to 5 CCR 3064, the California Department of Education may issue conditional certifications to allow agencies and schools time to comply with the new requirements.

Procedures specified in law shall govern the selection of appropriate nonpublic school or agency services.

Contracts with a nonpublic school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student. Individual services agreements shall be for the length of time for which nonpublic, nonsectarian school services are specified in the student's individualized education program (IEP), not to exceed one year. Changes in educational instruction, services or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

(cf. 6159 - Individualized Education Program)

The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district to provide the special education and designated instruction and services, as well as transportation specified in the student's IEP. The administrative provisions of the contract shall also include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district to ensure that appropriate high school graduation credit is received by the student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

(cf. 3541.2 - Transportation for Students with Disabilities)

Note: The nonpublic school or agency must be certified as meeting state standards pursuant to Education Code 56366. Contracts may be terminated for cause with 20 days' notice; however, the availability of a public education program initiated during the period of the contract cannot give cause for termination unless the parent/guardian agrees to transfer the student to the program.

Pursuant to Education Code 56366, as amended by SB 933 (Ch. 311, Statutes of 1998), the master contract must also include the following information.

The master contract shall include a description of the process being utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Education Code 56366)

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION (continued)**

The district IEP team shall annually review the IEP of a student placed in a nonpublic, nonsectarian school or agency. The student's IEP and contract shall specify the review schedules. (5 CCR 3068)

Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

Note: The following sample policy and regulation reflect amendments to the federal Individual with Disabilities Education Act (IDEA) (20 USC 1400-1487) and its implementing regulations (34 CFR 300.1-300.756) as amended in the Federal Register Vol. 64, No. 48, adopted March 12, 1999. Although these regulations took effect May 11, 1999, the United States Department of Education (USDE) is not mandating compliance until the state receives its 1999 federal funding, sometime between July 1 and October 1, 1999. Of course, a district may choose to implement the new regulations prior to the date mandated for compliance.

Pursuant to 20 USC 1415(b)(2), districts and/or Special Education Local Plan Areas (SELPA) are **mandated** to adopt procedures to protect the rights of students whenever: (1) the parents of the child are not known, (2) the district cannot, after reasonable efforts, locate the parents, or (3) the child is a ward of the state. When the child is a ward of the state, the district's procedures must also include the assignment of an individual to act as a surrogate for the parents. This assigned individual cannot be an employee of the CDE, district, or any other agency that is involved in the education and care of the child. (20 USC 1415(b)(2))

This policy and the following regulation should be revised for consistency with the policy and regulations of the SELPA in which the district participates.

In order to protect the rights of students with disabilities, the Superintendent or designee shall appoint a surrogate parent to represent a child with disabilities as necessary in accordance with law. He/she shall develop procedures for recruiting, training and assigning adults to serve as surrogate parents.

Before individuals are appointed as surrogate parents, the Superintendent or designee shall ensure that they have passed a criminal background screening and have demonstrated interest and skill in working with children with disabilities, sensitivity to ethnic and cultural factors, and ability to work cooperatively with others.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

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

(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

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

Legal Reference: (see next page)

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS (continued)

Legal Reference:

EDUCATION CODE

56028 Parent

56050 Surrogate parents

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to disabled children, especially:

7579.5 Surrogate parent; appointment; qualifications; liability

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

601 Minors habitually disobedient or truant

602 Minors violating laws

UNITED STATES CODE, TITLE 20

1414-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.20 Definition "parent"

300.515 Surrogate parents

Management Resources:

FEDERAL REGISTER

34 CFR 300.a Appendix A to Part 300 - Questions and Answers

34 CFR 300.a1 Attachment 1: Analysis of Comments and Changes

WEB SITES

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

US Department of Education, Office of Special Education and Rehabilitative Services:

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

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

Note: Pursuant to 20 USC 1415(b)(2), districts and/or SELPAs are **mandated** to adopt procedures to protect the rights of children under the following circumstances.

The Superintendent or designee shall appoint a surrogate parent to represent a child with disabilities under one or more of the following circumstances: (Government Code 7579.5; 34 CFR 300.515)

1. No parent for the child can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the child.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602, and either the court has referred the child for special education and related services or the student has a valid individualized education program (IEP), the court has specifically limited the right of the parent/guardian to make educational decisions for his/her child, and the student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726.
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a
5. The student has reached the age of majority but has been declared incompetent by a court of law

(cf. 6159 - Individualized Education Program)

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days.

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the child is moved from the home of the relative caretaker or foster parent who was appointed as a surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student.

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS (continued)

As far as practical, a surrogate parent should be culturally sensitive to his/her assigned child. (Government Code 7579.5)

Note: Federal and state law, 34 CFR 300.515 and Government Code 7579.5, provide that the surrogate parent cannot be an employee of any public or private agency that is involved in the child's education or care. However, pursuant to 34 CFR 300.515, an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards specified below may be selected. Persons serving as surrogate parents may include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers, provided that such persons are not involved in the child's education or care and do not have a conflict of interest in representing the child. In the Analysis of Comments to the Federal Regulations, FR 12616, (34 CFR 300.a1), the USDE states that a conflict of interest may arise because an educational decision has an impact on which agency will be responsible for paying for services for the child.

Surrogate parents shall have no vested interests that conflict with the child's educational interests and shall have knowledge and skills that ensure adequate representation of the child. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent. (34 CFR 300.515; Government Code 7579.5)

The surrogate parent shall have all the rights relative to the child's education that a parent has under the Individuals with Disabilities Education Act (20 USC 1414-1487; 34 CFR 300.1-300.756). The surrogate parent may represent the child in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7588. The surrogate parent may sign any consent relating to IEP purposes. (Education Code 56050)

Note: The remainder of this regulation is **optional**. Although the law does not establish term limits for surrogate appointments, the district may do so if desired. The following **optional** paragraphs should be revised or expanded to reflect district practice.

The Superintendent or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education
2. When the student reaches 18 years of age, unless he/she chooses not to make educational decisions for himself/herself or is deemed by a court to be incompetent

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS (continued)

3. Another responsible adult is appointed to make educational decisions for the student
4. The right of the parent/guardian to make educational decisions for the student is fully restored
5. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent as specified above

Note: Pursuant to 34 CFR 300.515, a surrogate parent is not considered a district employee because he/she is paid by the district to serve as a surrogate parent. The following **optional** paragraph provides that the surrogate not receive compensation for his/her services.

Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

(cf. 3350 - Travel Expenses)

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board of Trustees policy and administrative regulation.

(cf. 5125 - Student Records)

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

Note: 5 CCR 3052 requires the plan of each Special Education Local Plan Area (SELPA) to include procedures governing the systematic use of behavioral interventions and emergency interventions. The district should revise the following material for consistency with the policy and regulations of the SELPA in which it participates.

A special education student's behavior shall be subject to the disciplinary measures applicable to all students for such infractions unless it is a serious behavior problem as defined below.

(cf. 5131 - Conduct)
(cf. 5144 - Discipline)

More serious behavioral problems shall be addressed through the systematic use of behavioral and emergency interventions as provided below.

Definitions

Serious behavioral problems are behaviors which are self-injurious, assaultive or cause property damage, and other severe behavior problems that are pervasive and maladaptive for which instructional/behavioral approaches specified in the student's individualized education program (IEP) are found to be ineffective. (5 CCR 3001)

Behavioral intervention is a systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. Behavioral interventions are designed to provide the individual greater access to a variety of community settings, social contacts and public events and ensure the individual's right to placement in the least restrictive environment, pursuant to the student's IEP. The use of behavioral interventions shall not cause pain or trauma, shall respect the individual's human dignity and personal privacy, and shall assure his/her physical freedom, social interaction and individual choice. (5 CCR 3001)

Behavior intervention plan is a written document which is developed when the student exhibits a serious behavior problem that significantly interferes with the implementation of the student's IEP.

Behavioral intervention case manager is a designated certificated school/district/county staff member or other qualified personnel contracted by the district or county office, and trained in behavior analysis with emphasis on positive behavioral interventions. (5 CCR 3001)

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

Behavioral emergency is the demonstration of a serious behavior problem which has not previously been observed and for which a behavioral intervention plan has not been developed, or for which a previously designed behavioral intervention is not effective. (5 CCR 3001)

Functional Analysis Assessment

When a special education student's serious behavioral problem significantly interferes with implementing the goals and objectives of his/her IEP, the student's IEP team shall determine whether the instructional/behavioral approaches specified in the student's IEP have proven ineffective. If the IEP team finds that these approaches have been ineffective, a functional analysis assessment shall be conducted. (5 CCR 3052)

(cf. 6159 - Individualized Education Program)

Before a functional analysis assessment begins, parents/guardians shall be notified and consent obtained pursuant to Education Code 56321. No such assessment shall preclude a parent/guardian from requesting a functional analysis assessment on the basis of language and speech disorders or specific learning disabilities. (5 CCR 3052)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

The functional analysis assessment shall be conducted by, or be under the supervision of, a person with documented training in behavior analysis with an emphasis on positive behavioral interventions. This staff shall: (5 CCR 3052)

1. Observe the targeted inappropriate behavior, its frequency, duration and intensity
2. Observe events immediately preceding the behavior
3. Observe the consequences of the behavior to determine the purpose it serves for the student
4. Analyze the environment in which the behavior most frequently occurs
5. Analyze records for medical and health factors which may influence behavior
6. Review the history of the behavior, including the effectiveness of interventions used in the past

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

The parent/guardian shall receive a complete written report of the assessment. The report shall include: (5 CCR 3052)

1. A description of the nature and severity of the targeted behavior(s) in objective and measurable terms
2. A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the behavior and a functional analysis of the behavior across all appropriate settings in which it occurs
3. A description of the rate of alternative behaviors, their antecedents and consequences
4. A proposed behavioral intervention plan for consideration by the IEP team.

Behavioral Intervention Plan

Within 10 business days after removing a student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement, the district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, Board policy and administrative regulation.

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

Based on the functional assessment, the IEP team shall meet to determine whether a behavioral intervention plan is needed. If such a plan is needed, the IEP team shall be expanded to include a behavioral intervention case manager, qualified staff knowledgeable of the student's health needs, and others with expertise as deemed necessary by the parent/guardian, district or Special Education Local Plan Area (SELPA). This team shall develop a written behavioral intervention plan which includes: (5 CCR 3001)

1. A summary of relevant and determinative information gathered from the functional analysis assessment
2. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s)
3. The student's goals and objectives specific to the behavioral intervention plan
4. A detailed description of interventions to be used and the circumstances for their use
5. Specific schedules for recording the frequency of intervention use and the frequency of the targeted and replacement behaviors, including specific criteria for

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

- discontinuing an intervention for lack of effectiveness or replacing it with a specified and identified alternative
6. Criteria by which the procedure will be faded or phased-out, or less intense/restrictive intervention schedules or techniques that will be used
 7. Those behavioral interventions which will be used in the home, residential facility, work site or other noneducational settings
 8. Specific dates when the IEP team will periodically review the efficacy of the program
 9. The frequency of the consultation to be provided by the behavioral intervention case manager to the staff and parents/guardians who are responsible for implementing the plan

Based on the results of the functional analysis assessment, interventions specified in the plan may include: (5 CCR 3052)

1. Altering the identified antecedent event to prevent the occurrence of the behavior
2. Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior
3. Teaching the student adaptive behaviors which ameliorate negative conditions that promote the display of inappropriate behaviors
4. Manipulating the consequences for the display of inappropriate behaviors and alternative, acceptable behaviors, so that the alternative behaviors more effectively produce desired outcomes

Acceptable responses to targeted behavior may include, but are not limited to, one or more of the following: (5 CCR 3052)

1. The behavior is ignored, but not the student.
2. The student is verbally or verbally and physically redirected to an activity.
3. The student is provided with feedback.
4. The message of the behavior is acknowledged.
5. A brief physical prompt is provided to interrupt or prevent aggression, self-abuse or property destruction.

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

(continued)

The behavioral intervention plan shall become a part of the student's IEP and shall be sufficiently detailed so as to direct the plan's implementation. (5 CCR 3052)

A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in noneducational settings. (5 CCR 3001)

At intervals scheduled by the IEP team, the behavioral intervention case manager, parent/guardian and others as appropriate shall evaluate the effectiveness of the behavioral intervention plan in accordance with law. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team. (5 CCR 3052)

If the IEP team determines that changes in the behavioral intervention plan are necessary, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, propose changes to the plan. (5 CCR 3052)

The parent/guardian and the behavioral intervention case manager or qualified designee may make minor modifications without an IEP team meeting. The parent/guardian shall be notified of the need for modification and shall be able to review the existing program evaluation data prior to implementing the modification. Parents/guardians shall be informed of their right to question any modification to the plan through the IEP procedures. (5 CCR 3052)

The IEP team also may include in the plan contingency schedules for altering specified procedures, their frequency or their duration, without reconvening the IEP team. (5 CCR 3052)

Emergency Interventions

Emergency interventions not specified in a student's behavioral intervention plan shall be used only when necessary to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the student or others and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for systematic behavioral intervention plans. (5 CCR 3052)

Only emergency interventions approved by the SELPA may be used. No emergency intervention shall be used for longer than is necessary to contain the behavior. Upon prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (5 CCR 3052)

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

Parents/guardians shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include: (5 CCR 3052)

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used
5. A statement of whether the student is currently engaged in a systematic behavioral intervention plan
6. Details of any injuries sustained by students or others, including staff, as a result of the incident

If the behavior emergency report is for a student who does not have a behavioral intervention plan, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional analysis assessment, and determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting an assessment and/or not developing an interim plan. (5 CCR 3052)

If the behavior emergency report is for a student who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (5 CCR 3052)

Note: 5 CCR 3052 requires the SELPA to collect behavior emergency report data and annually report the number of such reports to the CDE and the Advisory Commission on Special Education.

Prohibited Interventions

The district prohibits any use of the following: (5 CCR 3052)

1. Any intervention designed or likely to cause physical pain

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

2. Releasing noxious, toxic or otherwise unpleasant sprays, mists or substances near the student's face
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort or access to the bathroom
4. Any intervention that subjects the student to verbal abuse, ridicule, humiliation or excessive emotional trauma
5. Use of any material or objects which simultaneously immobilize all hands and feet, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention
6. Locked seclusion, unless in a facility otherwise licensed or permitted by law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses
9. Force exceeding what is reasonable and necessary under the circumstances

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56524 Behavioral Interventions

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3052 Designated positive behavioral interventions

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.756 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

34 CFR 300.a1 Appendix A to Part 300 - Notice of Interpretation

EQUIPMENT, BOOKS AND MATERIALS

The Board of Trustees recognizes that students' educational opportunities are enhanced when they have sufficient access to high-quality textbooks, equipment and other instructional materials for each of the subjects they are studying. To adequately support the Board-approved curriculum, instructional materials must also be up to date.

The Superintendent or designee shall develop procedures for determining the sufficiency of district instructional materials in providing accurate, current information and ensuring that students have access to standards-based materials. When new instructional materials have been chosen in accordance with the district's selection and evaluation policy, the Board shall make final decisions regarding their purchase.

(cf. 0440 - District Technology Plan)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6163.1 - Library Media Centers)

Legal Reference:

EDUCATION CODE

60010 Definitions

60040-60047 Requirements, materials

60117-60119 Student textbook and instructional materials incentive program

60200-60206 Elementary school materials

60240-60252 State instructional materials funds

60400-60411 High school textbooks

EQUIPMENT, BOOKS AND MATERIALS

Student Textbook and Instructional Materials Incentive Program

Any year during which the district participates in the state Student Textbook and Instructional Materials Incentive Program, the Board of Trustees shall hold one or more public hearings. At these hearings, the Board shall determine whether each student in each school has or will have before the end of the fiscal year sufficient textbooks and instructional materials in each subject consistent with the content and cycles of the state curriculum frameworks. The Board's determination shall be made in the form of a resolution. (Education Code 60119)

The Board shall encourage participation by parents/guardians, teachers, interested community members and bargaining unit leaders at the above hearing(s). Ten days before the hearing(s), the Superintendent or designee shall post a notice in three public places within the district containing the time, place and purpose of the hearing. (Education Code 60119)

If the Board determines that there are insufficient textbooks and/or instructional materials, the Board shall: (Education Code 60119)

1. Provide classroom teachers and the public the reasons for the insufficiency, and
2. Take action to ensure that the insufficiency is corrected within two years, using any of the following:
 - a. Funds available from categorical programs for textbooks and/or instructional materials, including funds appropriated in the annual Budget Act.
 - b. District funds that are in excess of the amount available for each student during the prior fiscal year to purchase textbooks and/or instructional materials.
 - c. Other funds available to the district for textbooks and/or instructional materials.

The Superintendent or designee shall: (Education Code 60252)

1. Assure the Superintendent of Public Instruction of the district's compliance with the above requirements, and
2. Ensure that funds received through the Student Textbook and Instructional Materials Incentive Program:
 - a. Are used in compliance with Education Code 60119, and

EQUIPMENT, BOOKS AND MATERIALS (continued)

- b. Supplement any other state and local monies expended on textbooks and/or instructional materials.

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

The Board of Trustees desires that district instructional materials, as a whole, present a broad spectrum of knowledge and viewpoints, reflect the ethnic and cultural diversity of our society, and enhance the use of multiple teaching strategies and technologies. The Board's adoption of instructional materials shall be based on a determination that such materials meet criteria specified in law and are an effective learning resource to help students achieve grade level competency.

To ensure that instructional materials effectively support the district's adopted courses of study and meet current curricular goals, the selection of textbooks, technology-based materials, other educational materials and tests shall be coordinated with the overall development and evaluation of the district's curriculum and standards.

(cf. 0440 - District Technology Plan)

(cf. 3220.1 - Lottery Funds)

(cf. 6010 - Goals and Objectives)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6161 - Equipment, Books and Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6162.5 - Student Assessment)

(cf. 6162.7 - Use of Technology in Instruction)

(cf. 6163.4 - Student Use of Technology)

The Superintendent or designee shall establish a process by which instructional materials shall be reviewed for recommendation to the Board. This process shall involve teachers in a substantial manner and shall also encourage the participation of parents/guardians and community members.

Individuals who participate in selecting and evaluating instructional materials shall have no financial interest in the materials being reviewed, recommended or approved. Incompatible activities and conflicts of interest related to the selection and evaluation of instructional materials shall be clearly identified in administrative regulations.

(cf. 3315 - Relations with Vendors)

(cf. 9270 - Conflict of Interest)

All recommended instructional materials shall be available for public inspection at the district office.

Complaints concerning instructional materials shall be handled in accordance with Board policy and administrative regulation.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Legal Reference:

EDUCATION CODE

- 1720-1723 Preparation of courses of study*
 - 35272 Education and athletic materials*
 - 44805 Enforcement of course of studies; use of textbooks, rules and regulations*
 - 51501 Subject matter reflecting on race, color, etc.*
 - 60000-60005 Instructional materials, legislative intent*
 - 60010 Definitions*
 - 60040-60048 Instructional requirements and materials*
 - 60060-60062 Requirements publishers and manufacturers*
 - 60070-60076 Prohibited acts (re instructional materials)*
 - 60110-60111 Instructional materials on drug education*
 - 60117-60119 Student Textbook and Instructional Materials Incentive Program*
 - 60200-60206 Elementary school materials*
 - 60240-60252 State Instructional Materials Fund*
 - 60350-60352 Core reading program instructional materials*
 - 60400-60411 High school textbooks*
 - 60450-60453 Schiff-Bustamante Standards-Based Instructional Materials Program*
- CALIFORNIA CODE OF REGULATIONS, TITLE 5
- 9505-9550 Instructional materials*

Management Resources:

CDE PROGRAM ADVISORIES

1002.90 Selection of Instructional Materials, CIL: 90/91-02

CDE PUBLICATIONS

Standards for Evaluation of Instructional Materials with Respect to Social Content, 1986 edition, revised 2001

WEB SITES

CDE, Curriculum Frameworks and Instructional Resources Division: www.cde.ca.gov/cilbranch/eltdiv/cdsmc.htm

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

In accordance with the Instructional Materials Funding Realignment Program, the Board's priority in the selection of instructional materials is to ensure that all students in grades 9-12 are provided with the instructional materials that are aligned to state content standards in the core curriculum areas of reading/language arts, mathematics, science and history/social science.

When the Board determines that standards-aligned textbooks and instructional materials have been provided to all students in accordance with Education Code 60422, it shall so certify. A copy of the certification shall be kept on file in the district.

Note: SB 550 (Ch. 900, Statutes of 2004) amended Education Code 60252 to reauthorize the Student Textbook and Instructional Materials Incentive Fund. In order to access these funds, Education Code 60252 requires that the district satisfy the following criteria: (1) provide assurance to the Superintendent of Public Instruction that the Board has held a hearing on the sufficiency of instructional materials, as specified below; (2) ensure that the money will be used to provide sufficient materials; and (3) ensure that, to the extent practicable, instructional materials are ordered before the school year begins.

The Superintendent or Designee shall ensure that the district satisfies the criteria necessary to access funds under the state's Pupil Textbook and Instructional Materials Incentive Account pursuant to Education Code 60252. The district may pilot instructional materials, using a representative sample of classrooms for a specified period of time during a school year, in order to determine how well the materials support the district's curricular goals and academic standards.

Public Hearing on Sufficiency of Instructional Materials

Note: As a condition of receiving certain state textbook funds, Education Code 60199 has long required Boards to hold a public hearing on the sufficiency of instructional materials. SB 550 (Ch. 900, Statutes of 2004) amend Education Code 60119 to expand the scope of the hearing to include textbooks in specific subjects and to require that the hearing take place on or before the end of the eighth week of the school year.

Education Code 60119 defines "sufficient textbooks or instructional materials" to mean that each student, including each English learner, has a textbook and/or instructional materials to use in class or to take home to complete homework assignments. The law does not require two sets of textbooks or materials for each student. In addition, photocopied sheets from only a portion of a text of material copied to address a shortage are not considered "sufficient" for these purposes.

SB 550 also amended Education Code 33126 to require that sufficiency of textbooks be reported on the School Accountability Report Card. In addition, Education Code 1240, as amended by SB 550, requires that the County Superintendent of Schools visit schools in the county ranked in deciles 1-3 of the 2003 base Academic Performance Index to determine whether sufficient instructional materials have been provided. If the County Superintendent determines that a school does not have sufficient materials, he/she must prepare a report outlining the noncompliance and give the district a chance to remedy the deficiency. If the deficiency is not remedied by the district by the second month of the school year, the County Superintendent may request that the CDE, with the approval of the SBE, purchase textbooks and materials for the district, and the cost must be repaid by the district. The SBE will issue a public statement indicating the Superintendent and Board's "failure" to provide instructional materials.

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

The Board shall annually conduct one or more public hearings on the sufficiency of the district's instructional materials. At these hearings, the Board shall determine, through a resolution, whether each student in each school has sufficient textbooks and/or instructional materials that are aligned to the state content standards adopted pursuant to Education Code 60605 in each of the following subjects:

1. Mathematics
2. Science
3. History-social science
4. English/language arts, including English language development component of an adopted program

Note: Education Code 60119, as amended by SB 550 (Ch. 900, Statutes of 2004), requires that during the hearing the Board also make a written determination as to the sufficiency of textbooks or instructional materials in foreign language and health courses, as well as science laboratory equipment. Provision of these materials is not a condition for receipt of state textbook funds.

The Board shall also make a written determination as to whether each student enrolled in a foreign language or health course has sufficient textbooks or instructional materials that are consistent with the content and cycles of the state curriculum frameworks. The Board shall determine the availability of science laboratory equipment for grades 9-12. (Education Code 60119)

Note: SB 550 (Ch. 900, Statutes of 2004) amended Education Code 60119 to require that the hearing be held on or before the end of the eighth week or the first day of the school year. Because SB 550 became operative after the beginning of the 2004-05 school year, Education Code 60119 specifies that districts make a diligent effort to hold the hearing by December 1, 2004-2005 school year.

The hearing shall take place on or before the end of the eighth week from the first day students attend school for that year. For districts with schools on a multi-track year-round calendar, the hearing shall be held on or before the end of the eighth week from the first day of the school year on any track that begins a school year in August or September. (Education Code 60119)

Note: As amended by SB 550 (Ch. 900, Statutes of 2004), Education Code 60119 requires that the hearing be held at a time that will encourage public participation, as specified below.

The Board encourages participation by parents/guardians, teachers, interested community members, and bargaining unit leaders at the hearing. The Superintendent or designee shall post, 10 days prior to the hearing and in three public places within the district, a notice containing the time, place, and purpose of the hearing. The hearing shall not take place during or immediately following school hours. (Education Code 60119)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Note: Pursuant to Education Code 60119, as amended by SB 550 (Ch.900, Statutes of 2004), if the Board makes a determination that there are insufficient textbooks and/or instructional materials, the Board must take action to ensure that the textbooks are provided within two months of the beginning of the school year. According to various state agencies, if the Board takes action at the hearing to provide the textbooks (i.e. directs staff to order the texts) then the timelines in law have been satisfied. However, districts are strongly encouraged to hold the public hearing as early in the school year as possible in order to provide sufficient time to correct any deficiencies.

If the Board determines that there are insufficient textbooks and/or instructional materials, the Board shall provide information to classroom teachers and to the public, setting forth for each school, in which an insufficiency exists, the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject, and the reasons that each student does not have sufficient textbooks and/or instructional materials. The Board shall take any action, except an action that would require reimbursement by the Commission of State Mandates, to ensure that each student has sufficient materials within two months of the beginning of the school year in which the determination is made. (Education Code 60119)

Legal Reference:EDUCATION CODE

1240 County superintendent, general duties
33126 School accountability report card
35272 Educational and athletic materials
44805 Enforcement of course of studies; use of textbooks, rules and regulations
49415 Maximum textbook weight
51501 Subject matter reflecting on race, color, etc.
60000-60005 Instructional materials, legislative intent
60010 Definitions
60040-60048 Instructional requirements and materials
60060-60062 Requirements for publishers and manufacturers
60070-60076 Prohibited acts (re instructional materials)
60110-60111 Instructional materials on drug education
60119 Public hearing on sufficiency of material
60200-60206 Elementary school materials
60226 Requirements for publishers and manufacturers
60240-60252 State Instructional Materials Fund
60350-60352 Core Reading program instructional materials
60400-60411 High school textbooks
60420-60424 Instructional Materials Funding Realignment Program
60451 Publishers' standards maps
60605 State content standards
CODE OF REGULATIONS, TITLE 5
9505-9550 Instructional materials, especially:
9531-9532 Instructional Materials Funding Realignment Program

Management Resources:CDE PROGRAM ADVISORIES

1002.90 Selection of Instructional Materials, CIL 90/91-02

CDE PUBLICATIONS

Standards for Evaluation of Instructional Materials with Respect to Social Content, 1986 edition, revised 2001

SBE POLICY

Textbook Weight in California, May 2004

01-05 Guidelines for Piloting Textbooks and Instructional Materials, September 2001

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

CSBA PUBLICATIONS

Maximizing School Board Leadership: Curriculum, 1996

WEB SITES

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

Association of American Publishers: <http://www.publishers.org>

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

State Board of Education: <http://www.cde.ca.gov/be>

Instruction**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS**

The district shall use state funds received under the Instructional Materials Funding Realignment Program to ensure that each student is provided with standards-aligned textbooks or instructional materials in the course curriculum areas of reading/language arts, mathematics, science and history/social science.

Purchase of instructional materials for grades 9-12 should be preceded by receipt and review of the standards map provided by the publishers pursuant to Education Code 60451.

For grades 9-12, the Superintendent or designee shall review instructional materials in history/social science, mathematics, reading/language arts, and science using a standards map in order to determine the extent to which the materials are aligned to the content standards adopted by the SBE.

When the Governing Board has certified that all students have been provided with standards-aligned instructional materials in the core curriculum areas, the district may use any remaining program funds for the purposes specified in Education Code 60242. (Education Code 60119, 60422)

Criteria for Adoption

Instructional materials adopted by the Board shall:

Note: Education Code 60451, as amended by SB 264 (Ch. 15, Statutes of 1999), requires that instructional materials purchased through the Schiff-Bustamante Standards-Based Instructional Materials Program be aligned with content standards adopted by the SBE in 1997 or 1998 for grades 9-12. **Optional** item #2 below reflects the criteria of this program and should be revised to reflect the grade levels offered by the district.

1. Be aligned with content standards adopted by the State Board of Education in 1997 or 1998 for the core curriculum (Education Code 60451)

Instructional materials for grades 9 through 12 are basic instructional materials as defined in Education Code 60010 and shall be reviewed and approved, through a resolution adopted by the Board, as being aligned with the content standards. (Education Code 60451)

2. Not reflect adversely upon persons because of their race, color, creed, national origin, ancestry, gender, disability, or occupation, or that contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 60044)
3. To the satisfaction of the Board, be accurate, objective, current, and suited to the needs and comprehension of students at their respective grade levels (Education Code 60045)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Note: AB 116 (Ch. 276, Statutes of 1999) amended Education Code 60045 to add the use of proper grammar and spelling as criteria for the selection of instructional materials, as provided in item #5 below.

4. With the exception of literature and trade books, use proper grammar and spelling (Education Code 60045)

Note: AB 116 (Ch. 276, Statutes of 1999) added Education Code 60048 and amended Education Code 60200 to require that Boards not adopt basic instructional materials which provide unnecessary exposure to a commercial brand name, product, or corporate or company logo, unless it makes specific findings that the use has an educational purpose or is incidental to the general nature of an illustration, as provided in item #6 below.

On January 13, 2001, the State Board of Education revised its publication Standards for Evaluation of Instructional Materials with Respect to Social Content which details standards for the use of brand names and corporate logos in instructional materials. The SBE's guidelines contain examples of uses that may contain an "educational purpose." Categories for exemptions include historical purposes; consumer and career-related education; research applications; foreign language instruction; necessary sources of information; copyright protection; literature references; web-based resources and television shows; and events, locations, sports teams and people.

5. Not provide any exposure to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following: (Education Code 60200, 60048)
 - a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by the State Board of Education
 - b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration

Note: Education Code 60040 and 60041 contain requirements that instructional materials contain accurate portrayals of (1) the cultural and racial diversity of our society as specified, (2) humanity's place in ecological systems and the need to protect the environment, and (3) the effects of tobacco, alcohol and other drug use on the human system. Education Code 60042 requires the Board to adopt materials as it deems necessary to encourage thrift, fire prevention and the humane treatment of animals and people. Education Code 60043 requires that the Board, when appropriate to the comprehension of students, adopt textbooks for social science, history or civics classes that contain the Declaration of Independence and the Constitution of the United States. If desired, the district may expand item #7 below to list these specific requirements.

6. Meet the requirements of Education Code 60040-60043 for specific subject content
7. Support the district's adopted courses of study and current curricular goals

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

(cf. 6010 - Goals and Objectives)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6143 - Courses of Study)

8. Contribute to a comprehensive, balanced curriculum
9. Demonstrate reliable quality of scholarship as evidenced by:
 - a. Accurate, up-to-date and well-documented information
 - b. Objective presentation of diverse viewpoints
 - c. Clear, concise writing and appropriate vocabulary
 - d. Thorough treatment of subject
10. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities and developmental levels
11. Include materials that stimulate discussion of contemporary issues and improve students' thinking and decision-making skills
12. Contribute to the proper articulation of instruction through grade levels
13. Have corresponding versions available in languages other than English as appropriate
14. Include high-quality teacher's guides
15. Meet high publishing standards in terms of the quality, durability and appearance of paper, binding, text and graphics

Procedures for Adopting Textbooks

An instructional certificated staff member may initiate a recommendation for a new textbook, preferably during the annual textbook selection period under the following procedures:

1. Request to Review New Textbooks

Commencing the first of November of each school year, pertinent school staff will be notified that through the office of the school principal, via the API, the district instructional office will accept "Request to Review New Textbooks." These requests are to be received prior to leaving for Christmas Vacation.

2. Summary of School New Textbook Requests

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

A summary of new textbook requests from schools will be prepared by the district instruction office and forwarded to all publishers which are members of the California Association of Publisher's Representatives, and upon request, other publishers legally entitled to serve California school districts concerning our interest to preview new textbooks in the specified areas. Publishers will be requested to provide one preview textbook for each school specifying a particular request and one additional copy for the district instruction office for each area requested.

3. Department Meetings at School Sites

Upon receipt of books from responding publishers, local department meetings will be conducted at each school to determine respective recommendations for a new textbook(s). Carefully analysis will be directed to the advantages and disadvantages of a new textbook in relationship to the current textbook. An evaluation form, provided by the district instruction office, will be prepared for each new textbook to be recommended to and considered by the district area curriculum committee.

4. School Curriculum Committees

At a convenient time, each school curriculum committee will meet to discuss textbook recommendations from each area recommending a new textbook(s) for adoption. At this point in time, parents/guardians and students serving on the committee shall have input on any textbook displayed for recommended adoption.

5. District Area Curriculum Committees (one each subject area)

These committees consist of the area department head of each school, the assistant principal for instruction from each school, and the director of research and curriculum, for each subject area and is a committee that discusses curriculum, the need for curriculum changes, and textbooks. New textbook recommendations are received and considered by these committees from the representatives of the Local Area Curriculum Committee, usually the department head, and these committees will agree upon a new textbooks recommendation to be submitted to the district administrative council.

6. District Administrative Council

The District Administrative Council receives a summary of all new textbook recommendations from the District Area Curriculum Committees. Subsequent to a study of all textbook recommendations the Administrative Council may take one of two actions:

- a. Accept as recommended, or

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

- b. Return to pertinent District Area Curriculum Committees for further consideration and discussion seeking a resolution to disagreements. When disagreements have been resolved, the Superintendent will present the recommendation to the Board for their consideration and adoption.
7. Board of Trustees

If the Board approves the textbook recommendation as submitted or as submitted with one or more exceptions, these new titles shall be added to the district listing of adopted textbooks (regular and supplementary) and principals and appropriate department heads will be notified.
8. Department Heads

Pertinent department heads shall prepare and submit a requisition for the needed number of newly adopted textbooks on or before April 15.
9. Notification to Publishers

Subsequent to the Board adoption of new textbooks, all publishers previously submitted requests to submit preview copies of textbooks, will be notified of all new adoptions made by the district.

Conflict of Interest

To ensure integrity and impartiality in the selection and evaluation of instructional materials, no Board member or staff member shall:

1. Accept any emolument, money or other valuable thing, or any inducement, to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material (Education Code 60072)

Sample copies of instructional materials are excepted from this prohibition. (Education Code 60075)
2. Accept any gift, favor, entertainment or item of value from any person or entity that submits or is likely to submit instructional materials or related proposals to the district

(cf. 3315 - Relations with Vendors)
3. Be employed by any person, firm or organization submitting instructional material to the district

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

4. Have or negotiate a contractual relationship with any such person, firm or organization
5. Receive any compensation from any such person, firm or organization or any of its subsidiaries or controlling entities
6. Have an interest as a contributor, author, editor or consultant in any textbook or other instructional material submitted to the district
7. Discuss any instructional material or related proposal which has been or is likely to be submitted to the district with the person, entity or representative submitting it, except in a meeting scheduled and authorized by the Board or by the committee studying instructional materials
8. Attend workshops, seminars or social events sponsored by publishers, producers or vendors of instructional materials

(cf. 9270 - Conflict of Interest)

An individual formerly employed as a consultant on textbooks or other materials shall not be deemed to be financially interested in the selection or evaluation of instructional materials provided he/she:

1. Has not had a contractual relationship or received compensation for such consultant service in the preceding two years
2. Retains no rights to compensation accruing while selecting or evaluating materials for the district

An individual shall not be disqualified from selecting or evaluating instructional materials if he/she has only a "remote interest." As used in this regulation, "remote interest" means:

1. That of a non-salaried officer of a nonprofit organization
2. That of an employee or agent of a public entity or institution of higher education, provided the entity or institution has 10 or more other employees or agents and the individual has been an employee or agent thereof for at least three years
3. That of an editor, consultant, contributor or author of a textbook or other materials which are not being considered or reviewed, provided that such service was performed before selecting or evaluating instructional materials for the district and the individual retains no rights to compensation accruing while he/she serves in this capacity

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Any remote interest must be disclosed to the Superintendent or designee and communicated to the Board. Individuals who disclose a "remote interest" shall abstain from discussing, evaluating or voting on the related material.

SUPPLEMENTARY INSTRUCTIONAL MATERIALS

Note: In *McCarthy v. Fletcher*, the California Court of Appeal clarified that the Board may exclude materials from classroom teaching because they are educationally unsuitable and unrelated to the goals specified in Education Code 233.5, but not simply because the materials contain ideas to which Board or community members object.

The Board of Trustees encourages teachers to use supplementary instructional materials which are relevant to curriculum objectives and compatible with district goals and objectives. By using such materials, teachers can introduce content and instructional strategies that enrich the curriculum, enhance learning, help students make critical judgments, and stimulate their intellectual growth.

Teachers shall carefully preview all supplementary instructional materials in order to ensure that, in their professional judgment, the materials are:

1. Directly related to the course of study in which they are being used
2. Appropriate for students' ages and maturity levels

Supplementary instructional materials must also be consistent with criteria developed for the selection and evaluation of other instructional materials. If the teacher believes that the materials may be in conflict with district criteria, the teacher shall confer with the principal or designee before using them.

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

When using supplementary materials, teachers shall provide appropriate introductory and follow-up activities. In addition, teachers shall ensure that supplementary materials do not supplant the use of basic texts or teaching activities.

All materials must be used within legal copyright limits.

(cf. 6162.6 - Use of Copyrighted Materials)

Films

When a teacher desires to show a film that has not been approved by the district or county for use in the grade level taught, the teacher shall preview the film to determine whether in his/her professional judgment it is consistent with district criteria for the selection of instructional materials. All films must be appropriate for the curriculum and the students' ages.

If the teacher has any questions about how established district criteria apply to the film, he/she shall confer with the principal or designee before showing the film.

SUPPLEMENTARY INSTRUCTIONAL MATERIALS (continued)

(cf. 6141.2 - Recognition of Religious Beliefs and Customs)

(cf. 6142.1 - Family Life/Sex Education)

(cf. 6144 - Controversial Issues)

Legal Reference:

EDUCATION CODE

233.5 *Duty re instruction in morals, manners and citizenship*

18111 *Exclusion of books by governing board*

51510 *Prohibited study or supplemental materials*

51511 *Religious matters properly included*

51550 *Sex education materials*

60010 *Definitions*

COURT DECISIONS

McCarthy v. Fletcher, (1989) 207 Cal. App. 3d 130

DAMAGED OR LOST INSTRUCTIONAL MATERIALS

The Board of Trustees recognizes that instructional materials are an expensive resource. The Superintendent or designee may establish procedures in accordance with law to protect instructional materials from damage or loss.

Instructional materials provided for use by students remain the property of the district. Students are responsible for returning borrowed materials in good condition, with no more wear and tear than usually results from normal use.

When materials are lost or so damaged that they are no longer usable, the student shall immediately be issued a replacement material. However, the students or parent/guardians shall be responsible for reparation equal to the current replacement cost of the materials. When materials are damaged but still usable, the Superintendent or designee shall determine an appropriate charge.

If it can be demonstrated to the Superintendent or designee's satisfaction that the student has taken all reasonable precautions to safeguard instructional materials issued to him/her, the Superintendent or designee may excuse the student/parent/guardian from payment of reparation.

If reparation is not excused and not paid by the student or parent/guardian, the district may initiate due process procedures to withhold the student's grades, diploma and transcripts in accordance with law, Board policy, and administrative regulation.

(cf. 5125.2- Withholding Grades, Diploma or Transcripts)

(cf. 5131.5 - Vandalism, Theft and Graffiti)

Legal Reference:

EDUCATION CODE

48904 Willful misconduct; limit of liability of parent or guardian

48904.3 Withholding grades, diplomas or transcripts of students causing property damage or injury; transfer of students to new school districts; notice to rescind decision to withhold

60411 Purchase and use; property of district

CODE OF REGULATIONS, TITLE 5

305 Student responsible for care of property

TOXIC ART SUPPLIES

The Board of Trustees recognizes its responsibility to protect the health and safety of students in the selection of materials used for instruction in arts and crafts activities.

The Superintendent or designee shall develop procedures for the purchase, use and proper disposal of arts and crafts materials which ensure that the health and safety of students is protected from harmful exposure to toxic substances in accordance with Education Code 32064 and established health standards.

Students in grades 9-12 are considered able to read and understand product labels and to take adequate precautions to use products which are prohibited for use in grades K-6. The Superintendent or designee shall ensure that arts and crafts materials purchased for use in grades 9-12 meet the requirements of Education Code 32065. The products must be properly labeled to identify toxic ingredients, warn of potential adverse health effects and describe procedures for safe use and storage.

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)
(cf. 5142 - Safety)

Legal Reference:

EDUCATION CODE

- 32060 Legislative findings and declarations*
- 32061 Art or craft material; definition*
- 32062 Human carcinogen; definition*
- 32063 Toxic substance causing chronic illness; definition*
- 32064 Restrictions on purchases of arts and crafts materials*
- 32065 Warning labels*
- 32066 List of toxic art supplies; preparation and distribution*

HEALTH AND SAFETY CODE

- 108500-108515 Labeling of arts and crafts materials*

PENAL CODE

- 594.1 Aerosol containers of paint*

Management Resources:

CDE PROGRAM ADVISORIES:

- 0712.94 Toxic Art Supplies List of Approved Products CIL :94/95-01*

AUDIOVISUAL MATERIALS

It is also the policy of the El Monte Union High School District that every reasonable effort will be made to protect students from inappropriate use of audiovisual materials not currently owned by the District.

Other instructional materials may include, but not be limited to:

- | | |
|-----------------------|-----------------------|
| Motion pictures | Video tape recordings |
| Filmstrips | Transparency visuals |
| Film loops | Slides |
| Video Disc recordings | Pictures |

When such material is used in a class, local administrative approval is required. Materials involving controversial issues must be cleared through the Assistant Principal for Instruction and the Principal.

The foremost consideration in the use of instructional materials is whether they contribute to the fulfillment of the curriculum and whether the teacher is knowledgeable about materials and has thoroughly considered their potential effect on students.

Teachers will make every effort to protect students from conditions harmful to learning or to physical/emotional health and safety.

Students will not be exposed to “X” rated films, videotapes, or video discs. Materials designated with an “R,” “PG-13,” or “PG” rating may not be used in the classroom except as approved by the site principal and only under the following conditions:

1. The materials must be relevant and significant to the curriculum being studied and appropriate for the students being taught.
2. The materials must be thoroughly reviewed by the instructor prior to their use.
3. The materials must be reviewed and approved by the appropriate department chair and site assistant principal for instruction prior to their use.
4. Parents will be notified in writing by U.S. Mail of the intended use of these materials and be given the opportunity to exclude their child from the presentation. Attention will not be called to students whose parents have excluded them from a presentation. These students will receive an alternate assignment to be completed in a place outside the setting where these materials are being shown.

Teachers will not use televised programs that have been aired on subscription/pay channels (i.e., HBO, Showtime, Disney, etc.) unless authorized in writing by the subscribing agency.

AUDIOVISUAL MATERIALS**PROCEDURES FOR VIEWING FILMS/VIDEO CASSETTES/ DVD'S**

The showing of films and video cassettes is a professional decision reached by the principal or designee and the teacher following the adopted policies of the district. The viewing by the students of films and video cassettes which are not county or district approved or are related to the adopted instructional program should follow the guidelines below:

1. Films/video cassettes are used during instructional time will relate to specific subject areas.
2. The film/video cassette is submitted and/or discussed with the principal or designee. If the film/video cassette has not been reviewed, it should be reviewed by a minimum of two people (principal or designee/teacher/department chairperson). If in the professional judgment of the teacher and principal or designee it is acceptable for viewing, the teacher may show the film/video cassette/ DVD.
3. If the principal/or designee or the teacher decides the film/video cassette/DVD may be controversial, or has a commercial rating other than "G" but should be shown, a letter is to be sent to parents informing them of the decision to view the film/video cassette/DVD.
4. The taping of televised programs utilized in the instructional program will not include televised programs that have been aired on subscription/pay channels unless authorized in writing by the subscribing agency. This process is coordinated through the District Office.
5. Films/video cassette/DVD viewing requests should be submitted for approval a minimum of two weeks in advance.

If parents/guardian request their student not view the film/video cassette/DVD, an alternate assignment in another setting will be provided.

STUDENT AIDES

The Board of Trustees recognizes that many benefits accrue from the use of student aides. When assisting on a one-to-one basis, peer tutors often provide the extra attention that enables a fellow student to grasp a difficult concept or to practice shaky skills to the point of mastery. Classroom and laboratory assistants can free the teacher to spend more time on the kinds of learning activities and assignments that require long preparation and detailed review of students' work. Whether tutoring individuals or assisting in the class or laboratory, student aides themselves also benefit from this opportunity to reinforce their own abilities and learn by doing. Office assistants and attendance aides can acquire practical skills and familiarity with aspects of the school with which they would not normally have contact.

The Board also realizes that the time a student spends as an aide is time spent away from the academic setting in which students generally receive significant new instruction. Because our students need to acquire a wealth of information and abilities during their school years, the Board finds it appropriate to place reasonable limits upon activities which reduce the amount of time spent in regular classes. To this effect, the Superintendent shall provide regulations on the use of student aides within the district.

The Board expects that student aides as a group should reflect the diversity of each school's student population and include average students as well as those who excel.

STUDENT AIDES

1. The number of student aides in use at any district school shall at no time exceed 10 percent of the student population.
2. No student shall serve as a student aide for more than six semesters during the four years from grades 9 through 12.
3. Students selected to serve as student aides must have a minimum 2.0 grade point average.
4. Students selected to serve as peer tutors or classroom/laboratory assistants must have taken appropriate prerequisite classes and demonstrated special interest in the subject.
5. Teachers shall be limited to appointing one student aide per class period. In certain classes where particularly close supervision of students is advisable for safety reasons, the Superintendent or designee may allow more than the designated number of student aides.
6. Student aides may receive a semester grade (A-F) only if semester goals and objectives which require application of specific subject knowledge are on file and have been approved by the principal.

STUDENT ASSESSMENT

The Board of Trustees believes that the primary goal of student assessments should be to help students, parents/guardians and teachers identify individual student's academic accomplishments, progress and areas needing improvement in order to enhance teaching and learning.

The Superintendent or designee shall ensure that assessments are conducted for purposes of determining students' eligibility for and appropriate placement in district programs, need for supplemental instruction and eligibility for graduation.

(cf. 5123 - Promotion/Acceleration/Retention)
(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)
(cf. 6146.5 - Elementary/Middle School Graduation Requirements)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.6 - Identification and Education under Section 504)
(cf. 6171 - Title I Programs)
(cf. 6172 - Gifted and Talented Student Program)
(cf. 6174 - Education for English Language Learners)
(cf. 6175 - Migrant Education Program)
(cf. 6177 - Summer School)

The Board desires to use a variety of evaluation measures to reach the above-stated goal. To have validity, tests must correspond to the material that is being taught and reliably measure the extent to which students meet specified standards of achievement.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 6011 - Academic Standards)
(cf. 6142.7 - Physical Education)
(cf. 6162.51 - Standardized Testing and Reporting Program)
(cf. 6162.52 - High School Exit Examination)
(cf. 6162.53 - Golden State Examination)
(cf. 6162.54 - Test Integrity/Test Preparation)

The effectiveness of the schools, teachers and district shall be evaluated in part on the basis of these student assessments.

(cf. 0500 - Accountability)
(cf. 0520 - Intervention for Underperforming Schools)
(cf. 0530 - Awards for School Performance)
(cf. 4115 - Evaluation/Supervision)
(cf. 6190 - Evaluation of the Instructional Program)

When district wide and school-level results of student assessments are published, the Superintendent or designee may provide supplementary information to assist parents/guardians and the local community in interpreting test results and evaluating school performance.

STUDENT ASSESSMENT (continued)

(cf. 0510 - School Accountability Report Card)

Individual Record of Accomplishment

The Superintendent or designee shall ensure that each student, by the end of grade 12, has an individual record of accomplishment that includes the following: (Education Code 60607)

1. The results of the achievement test administered under the Standardized Testing and Reporting program pursuant to Education Code 60640-60647
2. The results of any end-of-course examinations taken
3. The results of any vocational education certification examinations taken

Legal Reference:

EDUCATION CODE

51041 Evaluation of educational program

51450-51455 Golden State Seal Merit Diploma

60600-60652 Assessment of academic achievement

60800 Physical fitness testing

60810 Assessment of language development

60850-60856 Exit examination

CODE OF REGULATIONS, TITLE 5

850-870 Standardized Testing and Reporting program

880-901 Designated primary language test

1200-1216 High School Exit Examination, as proposed 11/21/00

Management Resources:

CDE PROGRAM ADVISORIES

Students with Disabilities: Guidelines for Testing the California Standardized Testing and Reporting Program

0327.86 Reporting norm-referenced standardized achievement test scores to parents

CSBA ADVISORIES

0306.01 California Assessment Update

0313.00 Districts must ensure that all required student data is submitted to the publisher, or face financial penalty #00-01

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2001

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

STANDARDIZED TESTING AND REPORTING PROGRAM

The Superintendent or designee shall administer mandatory student assessments within the state Standardized Testing and Reporting (STAR) program as required by law and in accordance with Board of Trustees policy and administrative regulation.

(cf. 6162.5 - Student Assessment)
(cf. 6162.54 - Test Integrity/Test Preparation)

The Board desires to use the results of the achievement tests to evaluate the performance of district students against the state's academic standards, the performance of students in other districts across the state, and national norms.

(cf. 0500 - Accountability)
(cf. 0520 - Intervention for Underperforming Schools)
(cf. 0530 - Awards for School Performance)
(cf. 6011 - Academic Standards)

To ensure maximum student participation, the Superintendent or designee shall notify students and parents/guardians of the importance of these achievement tests.

Legal Reference:

EDUCATION CODE
51041 Evaluation of educational program
52057 Governor's Performance Award Program
60600-60652 Assessment of academic achievement
60810 Assessment of language development
CODE OF REGULATIONS, TITLE 5
850-870 Standardized Testing and Reporting program
880-901 Designated primary language test
1031-1039 State performance awards programs

Management Resources:

CDE PROGRAM ADVISORIES
Students with Disabilities: Guidelines for Testing the California Standardized Testing and Reporting Program
0327.86 Reporting norm-referenced standardized achievement test scores to parents
CSBA ADVISORIES
0306.01 California Assessment Update
0313.00 Districts must ensure that all required student data is submitted to the publisher, or face financial penalty #00-01
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2000
WEB SITES
CDE: <http://www.cde.ca.gov>
CSBA: <http://www.csba.org>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

STANDARDIZED TESTING AND REPORTING PROGRAM

The district shall administer the following assessments in the Standardized Testing and Reporting (STAR) program:

1. A standards-based achievement tests, as designated by the SBE pursuant to Education Code 60642.5, to each student in grades 9-11. (Education Code 60640)
2. The Standards-based Test in Spanish (STS) to Spanish speaking English language learners in grades 9-11 who either:
 - a. Receive instruction in Spanish, regardless of how long they have been in the United States
 - b. Have been enrolled in a California public school for less than 12 months. This test shall be required in addition to the CST administered in English.

Following the first year of enrollment in a California public school, Spanish speaking English language learners in grades 9-11 shall take the STS as such test results would provide useful information about students' performance.

3. The California Alternate Performance Assessment (CAPA) for students with severe cognitive disabilities who are unable to take the CST's even with accommodations or modifications, or the California Modified Assessment (CMA) for students who are not severely cognitively disabled, when determined appropriate by the student's IEP team

Any special education student who is in an English learner may be tested with the STS in accordance with item #4 above, unless the IEP specifically exempts him/her from such testing (5 CCR 881)

Note: In administering mandatory state assessments, the district acts as an agent of the California Department of Education (CDE) pursuant to Education Code 60613 and cannot be held liable for complying with state requirements to administer the tests.

STANDARDIZED TESTING AND REPORTING PROGRAM (continued)**Testing Period**

The Standardized Testing and Reporting (STAR) assessments, with the exception of the writing assessment, shall be administered to students during a testing window of 21 instructional days that includes 10 instructional days before and after completion of 85% of the school's instructional days.

The STAR writing assessment shall be administered only on the testing day(s) and make-up day(s) specified annually by the Superintendent of Public Instruction.

The Superintendent or designee shall arrange for at least two make-up days for the testing of students who were absent during the period that any school administered the designated achievement test and the standards-based test. All make-up testing shall occur within five instructional days of the last date that the district administered the tests but not later than the 21 instructional day window established above. (Education Code 60640; 5 CCR 855)

Exemptions

Note: 5 CCR 852, as amended in Register 2001, No. 19, clarifies that district personnel may discuss the STAR program and the availability of exemptions with parents/guardians, but may not solicit an exemption as specified below. It's important to note that if a school's participation in STAR falls below levels specified in 5 CCR 1032, the school will be ineligible for awards under the state's accountability program. See BP/AR 0530 - Awards for School Performance.

A parent/guardian may submit to the school a written request to excuse his/her child from any or all parts of any test. The district and its employees may discuss the STAR program with parents/guardians and may inform them of the availability of exemptions under Education Code 60615. However, the district and its employees shall not solicit or encourage any written exemption request on behalf of any student or group of students. (5 CCR 852)

Testing of English Language Learners

The CST's and STS shall be administered in accordance with the manuals or other instructions provided by the test contractor, unless a testing variation, accommodation, or modification is specifically allowed in 5 CCR 853 or 853.5 (5 CCR 853, 853.5)

All students may be provided with the following variations: (5 CCR 853.5)

1. Simplified or clarified test directions
2. Write-in test booklets (e.g. underlining, working math problems)
3. As much time as needed within a single sitting to complete a test or test part

STANDARDIZED TESTING AND REPORTING PROGRAM (continued)

In addition, all students shall be provided with the following testing variations if such variations are regularly used in the classroom: (5 CCR 853.5)

1. Special adaptive furniture
2. Special lighting, special acoustics, or visual magnifying or audio amplification equipment
3. An individual carrel or study enclosure
4. Individual testing in a separate testing room provided that a district employee who has signed the STAR Test Security Affidavit directly supervises the student
5. Colored overlay, masks, or other means to maintain visual attention to the test or test question
6. Manually Coded English or American Sign Language to communicate directions for test administration

Note: 5 CCR 853.5, as amended by Register 2005, No. 34, clarifies the variations that may be used for identified English learners, as specified below.
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Identified English learners shall be provided with the following testing variations if such variations are regularly used in the classroom or for assessment: (5 CCR 853.5)

1. Flexible setting: testing in a separate room with other English learners provided that a district employee who has signed the Test Security Affidavit directly supervises the student
2. Flexible schedule: additional supervised breaks following each section with a test part provided that the test section is completed within a testing day. A test section is identified by a “STOP” at the end of it.
3. Translated directions: hearing the test directions printed in the test administration manual translated into their primary language. English learners shall have the opportunity to ask clarifying questions about any test directions presented orally in their primary language.
4. Glossaries: access to translation glossaries/word lists for the standards-based achievement tests in mathematics, science, and history/social science (English to primary language). The translation glossaries/word lists are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries/word lists shall not include definitions or formulas.

Students with disabilities shall be permitted to take the assessments with any of the testing variations listed in 5 CCR 853.5, provided the variations are specified in their IEP or Section 504 plan. These variations may include, but are not limited to, accommodations in presentation or setting of the test administration or in how a student is allowed to respond, and/or modifications in accordance with 5 CCR 853.5.

STANDARDIZED TESTING AND REPORTING PROGRAM (continued)

District and Test Site Coordinators

Note: Pursuant to 5 CCR 857 and 858, districts must appoint a STAR program district coordinator and coordinators for each test site as specified below. 5 CCR 886 and 887 provide that these coordinators shall have the same responsibilities with regards to the designated primary language test.

Duties of the district coordinator are specified in 5 CCR 857. These duties include, but are not limited to, responding to correspondence and inquiries from the publisher and CDE in a timely manner; determining district and school test material needs; and coordinating the testing and makeup testing days. 5 CCR 858 specifies the duties of each test site coordinator. These duties include, but are not limited to, ensuring that only one answer document is submitted per student; maintaining security over the tests; and overseeing the administration of the tests to students.

Each year, the Superintendent or designee shall designate a district coordinator who shall serve as the district representative and liaison with the California Department of Education for all matters relating to the STAR program. The Superintendent or designee also shall designate a coordinator at each test site. (5 CCR 857-858, 886-887)

In addition to the duties prescribed in 5 CCR 857-858 and 886, the district coordinator shall establish guidelines to help ensure that the publisher is provided complete student information, as specified in 5 CCR 861 and 870, for purposes of the Academic Performance Index.

Note: Register 2005, No. 34 amended 5 CCR 857 to modify the timelines for reviewing reports received from the test contractor, as specified below.

After receiving summary reports and files from the test contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the test contractor and the California Department of Education of any errors, discrepancies, or incomplete information. (5 CCR 857)

Reports of Test Results

The Superintendent or designee shall forward the student report provided by the test contractor to the student's parents/guardians within 20 working days of receiving the report from the contractor. If these reports are received from the contractor after the last day of instruction in the school year, each student's results shall be mailed to his/her parents/guardians. (5 CCR 863)

STANDARDIZED TESTING AND REPORTING PROGRAM (continued)

Note: Pursuant to Education Code 60641, district personnel are not required to prepare individualized explanations of each student's test score as part of the report described in the following paragraph.

The report shall include a clear explanation of the purpose of the test, the student's score, and its intended use by the district. (Education Code 60641)

(cf. 5145.6 - Parental Notifications)

An individual student's scores shall also be reported to his/her school and teachers and shall be included in his/her student record. (Education Code 60641)

(cf. 5125 - Student Records)

District wide, school-level, and grade-level results shall be reported to the Governing Board at a regularly scheduled meeting. The Board shall not receive individual students' scores or the relative position of any individual student. (Education Code 60641)

(cf. 9321.1 - Closed Session Actions and Reports)

Individual test results shall not be released without the written consent of the adult student or the minor student's parents/guardians to any person other than a parent/guardian; a teacher, counselor or administrator directly involved with the student; or a postsecondary educational institution for the purposes of credit, placement, or admission. (Education Code 60607, 60641)

HIGH SCHOOL EXIT EXAMINATION

The Board of Trustees desires to ensure that district students who graduate from high school can demonstrate grade-level competency in reading, writing and mathematics and are given the opportunity to learn the subjects covered in the high school exit examination (hereinafter the “exam”) required for high school graduation.

The Superintendent or designee shall ensure that district programs and services, including but not limited to instructional materials, staff development and remediation programs, are aligned with the exam.

The Superintendent or designee shall administer the exam in accordance with the law.

Students may be allowed to take the exit exam with variations, accommodations, or modifications in accordance with the law and administrative regulation.

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6162.5 - Student Assessment)

(cf. 6162.54 - Test Integrity/Test Preparation)

Note: Pursuant to 5 CCR 1217.5, as added by Register 2001, No. 51, operative 1/20/02, districts are required to evaluate students to determine if they possess sufficient English language skills at the time of the exam so that they are able to be assessed.

The Superintendent or designee shall ensure that English language learners are evaluated to determine if they possess sufficient English language skills at the time of the exam to be assessed with the test. (5 CCR 1217.5)

Note: Education Code 60852 provides that administration of the exam may be delayed up to 24 months for students who do not possess sufficient English language skills to be assessed. The district may also provide English language learners with accommodations to afford access to the test, as long as such accommodations do not fundamentally alter what the test is designed to measure. See the accompanying administrative regulation. Because the exam is not a timed test, 5 CCR 1215, as amended in Register No. 2001, No. 51, operative 1/20/02, provides that all students may be given additional time to complete the exam, consistent with the requirements of test security. However, all students must ultimately pass the exam, in English, in order to receive a high school diploma.

(cf. 6179 - Supplemental Instruction)

Legal Reference: (see next page)

HIGH SCHOOL EXIT EXAMINATION (continued)

Legal Reference:

EDUCATION CODE

35146 *Closed sessions*

37252 *Summer school*

51041 *Evaluation of educational program*

56101 *Waiver of code or regulation*

60810 *Assessment of language development*

60850-60859 *Exit examination*

CODE OF REGULATIONS, TITLE 5

1200-1220 *High School Exit Examination*

UNITED STATE CODE, TITLE 20

1400-1487 *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

794 *Rehabilitation Act of 1973, Section 504*

COURT DECISIONS

Chapman v. California Department of Education, (2002, Northern. Dist. of CA) No. C-01-1780 CRB

Management Resources:

STATE BOARD OF EDUCATION POLICY

#01-07 *California High School Exit Examination: Waiver of Test Passage for Specific Special Education Students, December 2001*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2001

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

Instruction

AR 6162.52(a)

HIGH SCHOOL EXIT EXAMINATION

Definitions

Variation means a change in the manner in which a test is presented or administered or in how a student is allowed to respond, and includes, but is not limited to, accommodations and modifications as defined in Education Code 60850. (5 CCR 1200)

Accommodation means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. (Education Code 60850)

Modification means any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores. (Education Code 60850)

District and Test Site Coordinators

On or before July 1 of each school year, the Superintendent shall designate a high school exit examination coordinator from among district employees and shall notify the test contractor of the identity and contact information of the coordinator. The district coordinator or Superintendent or designee shall be available throughout the year; shall serve as the liaison between the district and the test contractor and between the district and the California Department of Education (CDE) for all matters related to the exit examination; and shall perform additional duties specified in 5 CCR 1209 and 1211. (5 CCR 1209)

Annually, the district coordinator or Superintendent or designee shall designate a test site coordinator for each test site to fulfill the responsibilities specified in 5 CCR 1210 and 11211. (5 CCR 1210)

All district and test site coordinators shall sign a test security affidavit pursuant too 5 CCR 1211.5.

Access to exam materials shall be limited to students taking the exam and individuals who have signed the test security affidavit, including employees directly responsible for test administration. All district and test site coordinators shall be responsible for inventory control. (5 CCR 1211)

Administration

The Superintendent or designee shall administer the exit exam in each district high school on the dates designated by the Superintendent of Public Instruction as exam days or make-up days.

The high school exit exam shall be administered as follows: (Education Code 60851; 5 CCR 1204, 1204.5)

HIGH SCHOOL EXIT EXAMINATION

1. Students shall take each section of the exam once per school year while in grade 10, either during the grade 10 census administration or the district designated grade 10 make-up administration.
2. Students in grades 11 who have not yet passed one or both sections of the exam shall have up to two opportunities per year to take the section(s) of the exam not yet passed, and may elect to take the exam during these opportunities. These students may be tested in successive administrations within a school year. Students in grades 11-12 shall be offered appropriate remediation or supplemental instruction before being retested.

(cf. 6179 – Supplemental Instruction)

3. Students in grade 12 shall have up to three opportunities to take the section(s) of the exam not yet passed. Eligible students in grade 12 may elect to take the exam up to three times during the school year and may take the exam in successive administrations. Students should be offered appropriate remediation or supplemental instruction before being retested.
4. Adult students shall have up to three opportunities per year to take the section(s) of the exit exam not yet passed and may elect to take the exam during these opportunities. Students should be offered appropriate remediation or supplemental instruction before being retested.

The Superintendent or designee shall administer the exam in each high school in the district on the dates designated by the Superintendent of Public Instruction as exam days or make-up days. (Education Code 60851)

Test administrators at the test sites shall be responsible for the accurate identification of eligible students who are to be administered the exam. This identification shall be made through the use of photo identification, positive recognition by an employee of the district. (5 CCR 1203)

All students may have additional time to complete the exam, within the limits imposed by test security. (5 CCR 1211, 1215)

The results of the exam shall be provided to each student taking the exam within eight weeks of the administration, pending the receipt of results from the state, and in time for the student to retake at the next administration cycle any section of the exam not passed. Students shall take again only those parts of the exam not previously passed. (Education Code 60851)

Any student found to have cheated, assisted others in cheating, or compromised the security of the exam shall not receive a score from that test administration. (5 CCR 1220)

HIGH SCHOOL EXIT EXAMINATION (continued)

If a student does not possess sufficient English skills to be assessed on the exit exam, the district may defer the exam requirement for a period of up to 24 calendar months of enrollment in the California public school system until the student has completed six months of instruction in reading, writing, and comprehension in the English language.

(cf. 5131.9 - Academic Honesty)

(cf. 6162.54 - Test Integrity/Test Preparation)

Testing Variations for All Students

The Superintendent or designee may provide any student with extra time within a testing day and/or simplified or clarified test directions and/or student marks (other than responses) including highlighting in test booklets.

A student may also be provided the following testing variations if they are regularly used in the classroom: (5 CCR 1215)

1. Special or adaptive furniture
2. Special lighting or acoustics, visual magnifying, or audio amplification equipment
3. An individual carrel or study enclosure
4. Individual testing in a separate room provided the student is directly supervised by an employee who has signed the test security affidavit
5. Markers, masks or other means to maintain visual attention to the exam or test items
6. Manually Coded English or American Sign Language to present directions for test administration

At least 30 working days before the proposed administration of the exam, the Superintendent or designee may submit a request to the California Department of Education for a case-by-case review of a proposed variation that is not specified in law. (5 CCR 1218) The request shall include a description of the requested variation(s) and if applicable, a certification that the student's IEP or Section 504 plan specifies that the requested variation is appropriate and necessary to access the exit exam due to the student's identified disability(ies) and that such variation is currently listed in his/her IEP or Section 504 Plan.

Testing Variations for English Language Learners

In addition to testing variations allowed for all students, English language learners may be allowed the following testing variations if regularly used in the classroom (5 CCR 1217) or for assessments:

1. Flexible setting: Testing in a separate room with other English language learners provided the students are directly supervised by an employee who has signed the test security affidavit

HIGH SCHOOL EXIT EXAMINATION (continued)

2. Flexible schedule: Additional supervised breaks within a testing day
3. Flexible time: Extra time on the exam within a testing day
4. Translated: English learners may have the opportunity to hear the test directions printed in the test contractor's manual translated into their primary language. English learners may have the opportunity to ask clarifying questions about test directions in their primary language

Glossaries: Access to translation glossaries (English to primary language). The glossaries are to include only the English words or phrases with the corresponding primary language words or phrases. The glossaries shall include no definitions, formulas, or parts of speech.

Accommodations/Modifications for Students with Disabilities

Note: For students with disabilities, 5 CCR 1215.5-1216, as renumbered and amended by Register 2004, No. 21, and Education Code 60850 authorize districts to administer the exam with certain accommodations or modifications when they are specified in the student's individualized education program (IEP) or Section 504 plan for use on the exam, standardized testing or classroom instruction and assessments.

A student with disabilities shall be permitted to take the exit exam with accommodations or modifications when his/her individualized education program (IEP) adopted pursuant to the Individuals with Disabilities Education Act or Section 504 plan specifies their use on the exam, standardized testing or classroom instruction and assessments. (Education Code 60850; 5 CCR 1215.5, 1216)

(cf. 6146.4 – Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6159 - Individualized Education Program)

(cf. 6146.6 – Identification and Education under Section 504)

The use of accommodations shall not invalidate a student's test score(s).

Accommodations may include: (5 CCR 1215.5)

1. Presentation accommodations, including large-print versions, test items enlarged through electronic means, Braille transcriptions provided by the test publisher or designee, use of Manually Coded English or American Sign Language to present test directions or to present test questions on the mathematics section of the exam

HIGH SCHOOL EXIT EXAMINATION (continued)

2. Response accommodations, including responses marked in the test booklet and transferred to the answer document by an employee who has signed the test security affidavit; responses dictated orally or in Manually Coded English, or in American Sign Language to a scribe for selected-response items (e.g., multiple choice test questions); responses dictated orally or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter, on the writing portion of the exam and the student indicates all spelling and language conventions; word processing software with spell and grammar check tools turned off on the writing portion of the exam; or an assistive device that does not interfere with the independent work of the student on the writing portion of the exam
3. Scheduling/timing accommodations, including testing over more than one day after consultation with the test publisher, supervised breaks within a section of the exam, and administration of the exam at the most beneficial time of day to the student after consultation with the test contractor
4. Setting accommodations, including tests administered by certificated teacher to a student at home or in the hospital

For purposes of receiving a high school diploma, the use of modifications shall invalidate a student's test score for the section of the exam for which the modification(s) were used. If the score is equivalent to a passing score, the student may be eligible for a waiver, as detailed below.

Modifications may include: (5 CCR 1216)

1. Arithmetic table, calculators, or math manipulatives on the mathematics section of the exam
2. Audio or oral presentation of the English/language arts section of the exam
3. Use of Manually Coded or American Sign Language to present test questions on the English/language arts section of the exam
4. Spellcheckers, grammar checkers or word processing software programs that check or correct spelling and/or grammar on the writing portion of the exam
5. Mechanical or electronic devices or other assistive devices that are not used solely to record the student's responses, including but not limited to transcribers, scribes, voice recognition or voice-to-text software, and that identify a potential error in student's response or that correct spelling, grammar or conventions on the writing portion of the exam
6. Responses dictated orally, in Manually Coded English, or in American Sign Language to provide an essay response to a scribe and the scribe provides spelling, grammar and language conventions
7. Dictionary on any section of the exam

HIGH SCHOOL EXIT EXAMINATION (continued)

Note: Pursuant to 5 CCR 1216, as renumbered and amended by Register 2004, No. 21, students who have taken the test with one or more modifications that alter what the test measures have not “successfully passed” the exam. The score report for the section(s) of the exam in which the modifications were used will be marked “not valid.” However, if the score is equivalent to a passing score, the student may be eligible for a waiver pursuant to Education Code 60851. The waiver allows a student with a disability who has passed the exam with modifications to graduate from high school and receive a diploma even though by definition he/she has not successfully passed the exit exam. See E(1) and E(2) for a sample waiver request form and principal certification form.

Waiver for Students with Disabilities

The parent/guardian of a student with disabilities who has taken any section of the exam with one or more a modifications and has received the equivalent of a passing score may request that his/her child receive a waiver of the requirement to successfully pass the exam. Upon receipt of such request, the principal shall submit to the Governing Board a request for a waiver. The Board may waive the requirement to successfully pass the exit exam if the principal certifies that the student has all of the following: (Education Code 60851; 5 CCR 1216)

Note: Education Code 60851 clarifies that, in order for a student to receive a waiver, his/her IEP or Section 504 plan must address the exit exam directly, as specified in item #1 below.).

1. An IEP or Section 504 plan in place that requires the accommodations or modifications to be provided to the student when taking the exit exam
2. Sufficient high school level coursework either satisfactorily completed or in progress in the high school level curriculum sufficient to have attained the skills and knowledge otherwise needed to pass the exit exam
3. An individual score report showing that the student has received the equivalent of a passing score on the exam while using a modification that fundamentally alters what the exit exam measures as determined by the State Board of Education

In order to protect the student’s privacy rights, the waiver shall be considered in closed session. Final Board action on the waiver shall be taken in open session and shall be a matter of public record. The student’s name shall not be disclosed in open session.

Each year, the Superintendent or designee shall provide the CDE with data regarding students with disabilities and the district’s waiver process as specified in 5 CCR 1207.1.

HIGH SCHOOL EXIT EXAMINATION (continued)

Records

The Superintendent or designee shall maintain a summary data file of all students who participate in each test administration. This record shall include the following information for the English/language arts section and the mathematics section for each test administration: (5 CCR 1205)

1. The date on which each section of the exam was offered
2. The full name of each student who took each section of the exam
3. The grade level of each student at the time each section of the exam was taken
4. Whether each student has satisfied the requirement to successfully pass each section of the exam

(cf. 3580 - District Records)

In addition, the Superintendent or designee shall provide the test contractor with the student demographic information as specified in 5 CCR 1207.

1. The date on which the student took each section of the exam
2. Whether the student has satisfied the requirement to successfully pass each section of the exam

(cf. 5125 - Student Records)

HIGH SCHOOL EXIT EXAMINATION (continued)

Notifications

At the beginning of each school year, the Board of Trustees shall provide written notification to all students in grades 9 through 12 and to their parents/guardians of the exit exam requirement. Such notification shall also be provided to a student who transfers into the district after the beginning of the school year at the time of the student's transfer. The notification shall include, at a minimum, the date of the exam, the requirements for passing the exam, and the consequences of not passing the exam, and shall inform the parent/guardian that passing the exam is a condition of graduation. The Superintendent or designee shall maintain documentation that the parent/guardian of each student has received this written notification. (Education Code 48980, 60850; 5 CCR 1208)

(cf. 5145.6 - Parental Notifications)

(cf. 6146.1 - High School Graduation Requirements)

Prior to each administration of the exam, the Superintendent or designee shall notify each eligible student of the provisions of 5 CCR 1220 relative to the consequences of cheating. (5 CCR 1220)

The Principal or designee shall notify parents/guardians of students with disabilities about the criteria and process for applying for a waiver of the requirement to successfully pass the exit exam.

HIGH SCHOOL EXIT EXAMINATION

**Parent/Guardian Request for Waiver of the High School Exit Examination
Requirement for a Student with Disabilities**

Please return the completed form to the principal of your child's high school.

My child, (Name)____, is a student with disabilities attending _____ (high school). He/she has taken the high school exit examination with modifications that alter what the test measures and has received the equivalent of a passing score on one or more parts of the exam.

I hereby request that the principal submit a request to the Governing Board for a waiver the requirement that my child successfully pass the exit examination in order to receive a high school diploma. I understand that, in order to receive such a waiver, state law requires that my child have all of the following:

1. An individualized education program (IEP) adopted pursuant to the Individuals with Disabilities Education Act or a plan adopted pursuant to Section 504 of the Rehabilitation Act of 1973 that specifies the use of the modification(s) on the exit exam, standardized testing, or classroom instruction and assessments
2. Sufficient high school level coursework either satisfactorily completed or in progress in the district's high school level curriculum sufficient to have attained the skills and knowledge otherwise needed to pass the exit exam
3. An individual score report showing that my child has received the equivalent of a passing score on the exam while using a modification that fundamentally alters what the exit exam measures as determined by the State Board of Education

I hereby certify that, to the best of my knowledge, my child satisfies the conditions listed above.

Parent/Guardian Signature: _____ Date: _____

HIGH SCHOOL EXIT EXAMINATION

**Principal's Certification and Request for the Governing Board
to Waive the High School Exit Exam Requirement
for a Student with Disabilities**

Student's Name: _____

Student's Number (for use on open session agenda): _____

Pursuant to Education Code 60851, the parent/guardian of _____ (Student's name), a child with disabilities, has requested that the Governing Board waive the requirement that his/her child successfully pass the high school exit examination in order to receive a diploma from _____ High School. His/her child has taken the high school exit exam with one or more modifications that fundamentally alter what the test measures as determined by the State Board of Education, and has achieved the equivalent of a passing score on one or both parts of the exam.

I certify that the student qualifies for a waiver because he/she satisfies all of the following conditions:

1. Has an individualized education program (IEP) adopted pursuant to the Individuals with Disabilities Education Act or Section 504 plan that specifies the use of the modification(s) on the exit exam, standardized testing or classroom instruction and assessments. (*Attach the IEP or Section 504 plan that indicates the modification needed to participate and access the high school exit exam.*)
 - a. Describe the nature of the student's disability as identified on the IEP or Section 504 plan:
 - b. Describe any modification(s) used on the English/language arts section of the exam:
 - c. Describe any modification(s) used on the mathematics section of the exam:
 - d. List the rationale as to why the modification used was necessary to allow the student to access the test:
 - e. Describe the accommodations/modifications that the student regularly uses for English/language arts:
 - f. Describe the accommodations/modifications that the student regularly uses for mathematics in the classroom and on other assessments:

HIGH SCHOOL EXIT EXAMINATION

2. Has sufficient high school level coursework either satisfactorily completed or in progress in the high school curriculum sufficient to have attained the skill and the knowledge otherwise needed to pass the high school exit examination. (*Attach transcript showing coursework completed.*)

Summarize the student’s academic preparation and performance in the subject areas of English/language arts and/or mathematics (depending on the subject of the waiver request) that demonstrate high school level achievement:

3. Has an individual score report showing that he/she has achieved the equivalent of a passing score on the exit exam (350 or more points) using a modification that fundamentally alters what the exam measures. (*Attach a copy of the exit exam Student and Parent Report showing “equivalent of a passing score” in either the English/language arts/and/or math portion of the exam.*)

Certified by: _____ (principal’s signature) Date: _____

TEST INTEGRITY/TEST PREPARATION

The Board of Trustees desires to protect the integrity of student assessment processes in order to obtain an accurate assessment of student achievement in the district and maintain accountability to the community and state. Students and staff are expected to maintain a high level of integrity in the completion and handling of student assessments.

(cf. 0500 - Accountability)

(cf. 0520 - Intervention for Underperforming Schools)

(cf. 0530 - Awards for School Performance)

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 5131 - Conduct)

(cf. 5131.9 - Academic Honesty)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

(cf. 6162.53 - Golden State Examination)

Test Integrity

In the administration of standardized tests, staff shall not:

1. Provide inappropriate test preparation
2. Modify test administration procedures
3. Provide inappropriate assistance to students during test administration
4. Change or fill in answers on student answer sheets
5. Provide inaccurate data on student header sheets
6. Discourage or exclude certain students from taking the test
7. Engage in any other practice to artificially raise student scores without actually improving underlying student achievement

Preparation for State Tests

Note: In September 2001, the State Board of Education adopted a policy statement on inappropriate test preparation. The following section reflects the SBE's policy statement as well as state law and regulations.

Staff may prepare students for assessments by providing instruction in the content specified in state and district academic standards and teaching general test-taking strategies that are designed to improve their performance on tests included in the Standardized Testing and Reporting Program, the California High School Exit Exam, or the California English Language Development Test. Such strategies may include, but not be limited to using time efficiently, understanding directions, placing answers correctly on answer sheets, checking answers, problem solving tactics, and exposing students to various test formats.

(cf. 6011 - Academic Standards)

TEST INTEGRITY/TEST PREPARATION (continued)

The Superintendent or designee, principals and teachers shall not implement any program of specific preparation for the statewide student assessment program or a particular test used within that program. (Education Code 60611)

Practice tests provided by the publisher of the state achievement test may be used for the limited purpose of familiarizing students with the use of scanable test booklets or answer sheets and the format of test items. No alternate or parallel form of the test shall be administered or used. (5 CCR 854)

Staff shall not use released test questions to develop practice tests that mimic or parallel state tests, or for teaching or drilling students only on the released items.

Investigation and Consequences of Testing Irregularities

Reports of student cheating on assessments shall be submitted to the principal or designee for investigation. Students found to have cheated on assessments shall be subject to disciplinary procedures in accordance with Board policy and administrative regulations.

(cf. 5144 - Discipline)

A staff member found to have committed testing irregularities shall be subject to discipline in accordance with law, where applicable, collective bargaining agreements, Board policy and administrative regulations.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

The Superintendent or designee shall immediately investigate with due diligence any reports of inappropriate test preparation or other testing irregularities.

Note: Pursuant to 5 CCR 857, the district must certify the accuracy of STAR test results.

If the Superintendent or designee is made aware of a testing irregularity on state assessments, he/she shall report the irregularity to the California Department of Education.

Legal Reference: (see next page)

TEST INTEGRITY/TEST PREPARATION (continued)

Legal Reference:

EDUCATION CODE

60600-60652 *California Assessment of Academic Achievement, especially:*

60611 *Inappropriate test preparation*

GOVERNMENT CODE

54957 *Complaints against employees, closed session*

CODE OF REGULATIONS, TITLE 5

854 *Advance preparation for test*

857 *STAR Program District Coordinator*

1032 *Testing irregularities, ineligibility for state awards program, as proposed 11/21/00*

1215 *Cheating on the high school exit examination, as proposed 11/21/00*

Management Resources:

STATE BOARD OF EDUCATION POLICIES

Policy and Guidelines on Preparation for State Tests, September 2001

WEB SITES:

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

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