

**Richmond Board of Trustees**  
Regular Meeting  
**Thursday, May 11, 2023**  
Open Session 6:00 P.M.  
The meeting will be held in the **Resource Room**.

The Board of Trustees of the Richmond School District welcomes you to this meeting. Members of the public may be heard on any item on the Board's agenda. Comments of the public on an item that appears on the agenda will be allowed during consideration of that item by the Board. While not required, the Board would appreciate it if you would identify yourself with your name and your address when addressing the Board.

1. **Open Session    Call to Order at 6:00 p.m.**
  - 1.1 Flag Salute
2. **Public Comments**

This is an opportunity for any member of the public to address the Governing Board on any matter not on the agenda but which is within the jurisdiction of the Board.
3. **Approval of Agenda**
4. **Reports from Richmond Organizations and Staff**
  - 4.1 **RCA**
    - 4.1.1 RCA Report
  - 4.2 **Superintendent/Principal Report**
    - 4.2.1 P-2 Enrollment – 180.99 @ Attendance Rate of 94.95%
    - 4.2.2 Graduation – June 7<sup>th</sup> at 7:00 p.m.
    - 4.2.3 8<sup>th</sup> Grade Student Recognition Award
  - 4.3 **Director of Buildings and Grounds**
    - 4.3.1 Parking Lot Update
    - 4.3.2 Gym Paint Update
    - 4.3.3 Kitchen Update
    - 4.3.4 Summer Projects
  - 4.4 **Certificated Staff and Classified Staff Reports**
    - 4.4.1 Certificated Staff Report
    - 4.4.2 Classified Staff Report
5. **Curriculum/Student Performance**

No Report
6. **Business**
  - 6.1 Approval/Discussion to grant Unpaid Leave of Absence for Savanna Merchant, Paraprofessional ACTION

- 6.2 Approval/Discussion of Overnight Field Trip for 8<sup>th</sup> Grade to Sacramento/Vallejo – May 31<sup>st</sup> to June 1<sup>st</sup>. ACTION
- 6.3 Approval/Discussion of the Revised 23/24 School Year Calendar to add Minimum Days for PLC's ACTION
- 6.4 Approval/Discussion of Cost Estimate for Engineering Services regarding the Parking Lot Project with NST Engineering ACTION
- 6.5 Update of the 2022 Kitchen Infrastructure and Training (KIT) Funds
- 6.6 Approval/Discussion of Williams Act Quarterly ACTION
- 7. **Minutes**
  - 7.1 Approval of minutes of the regular meeting on April 13, 2023 ACTION
- 8. **Policy**
  - 8.1 Board Policy March 2023 Updates – **Final Reading**
    - E 3555: Nutrition Program Compliance
    - BP 4030: Nondiscrimination In Employment
    - BP 4218: Dismissal/Suspension/Disciplinary Action
    - AR 4218: Dismissal/Suspension/Disciplinary Action
    - AR 5113: Absences and Excuses
    - AR 5131.41: Use of Seclusion and Restraint
    - AR 5144: Discipline
    - AR 5144.1: Suspension and Expulsion/Due Process
    - AR 5144.2: Suspension and Expulsion/Due Process (Students with Disabilities)
    - AR 6115: Ceremonies and Observances
    - BP 6173: Education for Homeless Children
    - AR 6173: Education for Homeless Children
    - BP 6173.1: Education for Foster Youth
    - AR 6173.1: Education for Foster Youth
    - Bylaw 9320: Meetings and Notices
  - 8.2 Board Policy **BP & AR 3515 - Campus Security – Final Reading**
- 9. **Warrants**
  - 9.1 Approval of warrants list(s) for May ACTION
- 10. **Correspondence**  
No Report
- 11. **Information: Comments from Board Members**
  - 11.1 Signing of 2023 Diplomas
  - 11.2 Selection of Board Representatives for Graduation

**12. Closed Session**

12.1 Pursuant to Government Code Section 54957.6, the Board will meet in Closed Session regarding Labor Negotiations for the following:

- Richmond Classified Staff

12.2 Pursuant to Government Code Section 54957.6, the Board will meet in Closed Session regarding Labor Negotiations for the following:

- Richmond Classified Management

12.3 Pursuant to Government Code Section 54957.6, the Board will meet in Closed Session regarding Labor Negotiations for the following:

- Richmond Teachers Association

12.4 Pursuant to Government Code Section 54957.6, the Board will meet in Closed Session regarding Labor Negotiations for the following:

- Unrepresented employee: Superintendent

**13. Reconvene to Open Session**

13.1 Announcement of action taken in Closed Session

**14. New Business**

**14.1 Superintendent Contract**

The Board will determine whether to approve a proposed Superintendent's Contract, including compensation.

**15. Adjournment**

**2023 Meeting Calendar**

June 22, 2023	September 14, 2023	December 14, 2023
June 29, 2023	October 12, 2023	
July - No Meeting	November 9, 2023	
August 10, 2023	December 14, 2023	

**Savanna Merchant**

830 Arnold Street  
Susanville, CA 96130  
(530) 250-9161  
smerchant@richmondelementary.com

30th March, 2023

**Jeannette Goni**

Chief Business Officer, Richmond Elementary School District  
700-585 Richmond Rd  
Susanville, CA 96130

Dear Ms. Goni:

I am writing to request an unpaid leave of absence from the end of April through the Summer.

I have greatly enjoyed my time working with everyone at Richmond Elementary. In particular I have had so much fun with the music program and Mr. Harris. I sincerely hope to continue as a paraprofessional for the 2023 - 2024 Academic Year. However, it is necessary for me to return to my hometown in Jilin, China this Spring.

I will be traveling with my children and will also need to un-enroll them from the school. I will be homeschooling them for the remainder of the Academic Year.

Thank you for the wonderful opportunity of working with such a professional and dedicated staff. I look forward to working with everyone upon my return.

Sincerely,

Savanna Merchant

**Richmond School District   Exhibit 6153.1**  
**Request for Board Approved School Sponsored Trip**

Per policy 6153 those field trips that require to travel overnight must be approved in advance by the Board of Trustees.

<b>Destination</b>	<u>Sacramento, Vallejo, CA</u>	<b>Dates of trip</b>	<u>5/31/23 and 6/1/23</u>
<b>Teacher</b>	<u>Loflin</u>	<b>Grade</b>	<u>8</u>

Attach the proposed itinerary. How does it relate to curricular objectives and standards for your grade level?  
Please see attached itinerary.

Students will be visiting Sacramento State University to encourage the continuation of schooling past high school.

Number of students going 15

Number of adults 7

Are there any students that cannot go or will need special arrangements? Describe  
Two students are ineligible due to behavior.

**Transportation:** (circle)      Parent Drivers    Lassen High Bus    Bus line      Cost Valet

**Overnight Lodging:** Describe accommodations      Cost 2,023+

\*For Transportation, this year we opted for parent drivers due to the cost of a bus (\$6,000+). Parents will be reimbursed for gas and parking charges.

Embassy Suites, Sacramento \$289/room

Average of 3 students per room and 1 chaperone, Rooms for Teachers

**Food/meals:** Describe arrangements being made for all meals and snacks.      ☒ Cost 500+

Wednesday lunch - Top Golf (part of cost below)

Thursday breakfast - Continental breakfast at Embassy

Thursday lunch - Meal Voucher Six Flags (20.99)

\* Looking into how leftover funds can cover student meals.

**Fees:** List all expected entry fees, registration costs, and ticket prices.      Cost 1,300+

Top Golf \$18/person, Six Flags Tickets \$36.99, Jelly Belly Admission \$3/kid, \$7/ad

**Total Cost:** 3,823+

**Funding:** Describe any fundraising that is planned or any student contribution that is needed.

7th Grade Dinner, Back to School BBQ, Basketball Tournament, Scentsy

General Fund	<u>                    </u>
Fundraising	<u>                    ✓                    </u>
Family	<u>                    </u>
(Check One)	

## Eighth Grade Trip Itinerary

Wednesday, May 31 to Thursday, June 1, 2023

### Wednesday, May 31

Depart Richmond School	7:30 A.M.
Top Golf	12:00 P.M.
Tour of Sacramento State	3:00 P.M.
Check into Embassy Suites	5:30 P.M.

### Thursday, June 1

Check out of Embassy Suites	8:30 A.M.
Jelly Belly Factory	9:30 A.M.
Six Flags Vallejo	10:30 A.M.
Depart Vallejo	5:30 P.M.
Home	10:30 P.M.

### Addresses

Richmond Elementary School  
700-585 Richmond Road East  
Susanville, CA 96130

Top Golf  
1700 Freedom Wy  
Roseville, CA 95678

California State University, Sacramento  
6000 J St  
Sacramento, CA 95819

Embassy Suites- Sacramento Riverfront  
100 Capitol Mall  
Sacramento, CA 95814

Jelly Belly Factory  
1 Jelly Belly Lane  
Fairfield, CA 94533

Six Flags Discovery Kingdom  
1001 Fairgrounds Drive  
Vallejo, California 94589

July						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Independence Day 7/4

January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Winter Break 12/22-1/5

Return to School 1/8

MLK Jr 1/15

17

August						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Teacher Workday 8/14 - 8/16

Staff In-Service Day 8/16

1st Day of School 8/17

11

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

100th Day of School 2/1

Lincoln's Birthday 2/12

President's Day 2/19

19

September						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Labor Day 9/4

Co. In-Service-No School 9/22

19

March						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

2nd Trimester Ends 3/1

Prof. Dev-Min. Day 3/18 & 3/19

Cont. Snow Day 3/29

20

October						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Columbus Day 10/10

Prof. Develop 10/25-Min. Day

21

April						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Easter Break 4/1-4/5

17

November						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

1st Trimester Ends 11/9

Veteran's Day 11/10

Conferences Min Day 11/13-17

Thanksgiving Break 11/20- 24

16

May						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Cont. Snow Day 5/24

Memorial Day 5/27

21

December						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Winter Break 12/22-1/5

15

June						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

3rd Trimester Ends 6/6

Graduation 6/5

Last Day of School Min Day 6/6

Teacher/Staff Workday 6/7

Juneteenth 6/19

4

RICHMOND SCHOOL BELL AND CLASS SCHEDULE 2023/2024									
AUGUST 17 THRU JUNE 6 = 180 school days									
BASE TIME									
23 minimum days									
Morning Recess									
Grade K-4									
10:00 - 10:15 Primary Playground									
-15									
Grade 5-8									
10:15 - 10:30 Upper Playground									
-15									
Lunch Recess									
Grade TK/K-1									
11:45 - 12:25									
-40									
Grade 2-3									
11:55 - 12:35									
-40									
Grade 4-5									
12:05 - 12:45									
-40									
Grade 6-7									
12:15 - 12:55									
-40									
Grade 8									
12:20 - 1:00									
-50									
Afternoon Recess									
Grade Kg									
none									
Grade 1-2									
none									
Grade 3-4									
none									
Grade 5-6									
none									
Grade 7-8									
none									
SCHOOL BEGINNING TIME									
Kg - 8th gr 8:00									
TK 10:15									
SCHOOL ENDING TIME									
Kg - 8th gr 2:45									
TK 2:45									
MINIMUM DAY SCHEDULE -23 days - 8:00 - 12:30 = 4.50 hrs.									
Morning Recess									
Grade TK/K-4									
10:00 - 10:15 Primary Playground									
-15									
Grade 5-8									
10:15 - 10:30 Upper Playground									
-15									
Lunch Recess									
Grade TK/K-1									
11:45 - 12:25									
-40									
Grade 2-3									
11:55 - 12:30									
-35									
Grade 4-5									
12:05 - 12:30									
-25									
Grade 6-7									
12:15 - 12:30									
-15									
Grade 8									
12:20 - 12:30									
-10									
School Minutes									
INSTRUCTIONAL MINUTES PER CLASS									
Minimum Days									
- 15 min lunch									
Grade TK									
10:15 - 2:45 = 6.75 hrs.									
Grade K									
8:00 - 2:45 = 6.75 hrs.									
Grade 1									
8:00 - 2:45 = 6.75 hrs.									
Grade 2-3									
8:00 - 2:45 = 6.75 hrs.									
Grade 4-5									
8:00 - 2:45 = 6.75 hrs.									
Grade 6-7									
8:00 - 2:45 = 6.75 hrs.									
Grade 8									
8:00 - 2:45 = 6.75 hrs.									
2.25 hrs. x 60 = 135 = 135 min x 23 days = 3,105 minutes									
4.5 hrs. x 60 = 270 = 270 min x 23 days = 6,210 minutes									
4.5 hrs. x 60 = 270 - 15 - 40 = 215 min x 23 days = 4,945 minutes									
4.5 hrs. x 60 = 270 - 15 - 35 = 220 min x 23 days = 4,945 minutes									
4.5 hrs. x 60 = 270 - 15 - 25 = 230 min x 23 days = 5,290 minutes									
4.5 hrs. x 60 = 270 - 15 - 15 = 240 min x 23 days = 5,520 minutes									
4.5 hrs. x 60 = 270 - 15 - 10 = 245 min x 23 days = 5,635 minutes									
SUMMARY									
Grade TK									
215 minutes x 157 full days = 33,755 minutes									
Grade K									
350 minutes x 157 full days = 54,950 minutes									
Grade 1									
350 minutes x 157 full days = 54,950 minutes									
Grade 2-3									
350 minutes x 157 full days = 54,950 minutes									
Grade 4-5									
350 minutes x 157 full days = 54,950 minutes									
Grade 6-7									
350 minutes x 157 full days = 54,950 minutes									
Grade 8									
340 minutes x 157 full days = 53,380 minutes									
Minimum Days Calculations									
3,105 minimum day minutes									
6,210 minimum day minutes									
4,945 minimum day minutes									
4,945 minimum day minutes									
5,290 minimum day minutes									
5,520 minimum day minutes									
5,635 minimum day minutes									
Total minutes									
36,860									
61,160									
59,895									
59,895									
60,240									
60,470									
59,015									

AUGUST 17 THRU JUNE 6 = 180 school days		BASE TIME	
Morning Recess		23 minimum days	
Grade K-4	10:00 - 10:15	Primary Playground	-15
Grade 5-8	10:15 - 10:30	Upper Playground	-15
Lunch Recess			
Grade TK/K-1	11:45 - 12:25		-40
Grade 2-3	11:55 - 12:35		-40
Grade 4-5	12:05 - 12:45		-40
Grade 6-7	12:15 - 12:55		-40
Grade 8	12:20 - 1:00		-50
Afternoon Recess			
Grade Kg	none		
Grade 1-2	none		
Grade 3-4	none		
Grade 5-6	none		
Grade 7-8	none		
SCHOOL BEGINNING TIME		SCHOOL ENDING TIME	
Kg - 8th gr	8:00	Kg - 8th gr	2:45
TK	10:15	TK	2:45
MINIMUM DAY SCHEDULE -23 days - 8:00 - 12:30 = 4.50 hrs.			
Morning Recess			
Grade TK/K-4	10:00 - 10:15	Primary Playground	-15
Grade 5-8	10:15 - 10:30	Upper Playground	-15
Lunch Recess			
Grade TK/K-1	11:45 - 12:25		-40
Grade 2-3	11:55 - 12:30		-35
Grade 4-5	12:05 - 12:30		-25
Grade 6-7	12:15 - 12:30		-15
Grade 8	12:20 - 12:30		-10
School Minutes	INSTRUCTIONAL MINUTES PER CLASS		Minimum Days
Grade TK	10:15 - 2:45 = 6.75 hrs.	(-15/40 min) = 4.50 x60 =270 min - 15 - 40 = 215 minutes	2.25 hrs. x 60 = 135 = 135 min x 23 days = 3,105 minutes
Grade K	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 40 = 350 minutes	4.5 hrs. x 60 = 270 = 270 min x 23 days = 6,210 minutes
Grade 1	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 40 = 350 minutes	4.5 hrs. x 60 = 270 - 15 - 40 = 215 min x 23 days = 4,945 minutes
Grade 2-3	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 40 = 350 minutes	4.5 hrs. x 60 = 270 - 15 - 35 = 220 min x 23 days = 4,945 minutes
Grade 4-5	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 40 = 350 minutes	4.5 hrs. x 60 = 270 - 15 - 25 = 230 min x 23 days =5,290 minutes
Grade 6-7	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 40 = 350 minutes	4.5 hrs. x 60 = 270 - 15 - 15 = 240 min x 23 days =5,520 minutes
Grade 8	8:00 - 2:45 = 6.75 hrs.	(-15/40 min) = 6.75 x60 = 405 min - 15 - 50 = 340 minutes	4.5 hrs. x 60 = 270 - 15 - 10 = 245 min x 23 days =5,635 minutes
SUMMARY		Minimum Days Calculations	
Grade TK	215 minutes x 157 full days = 33,755 minutes	Minimum day minutes	Total minutes
Grade K	350 minutes x 157 full days = 54,950 minutes	3,105 minimum day minutes	36,860
Grade 1	350 minutes x 157 full days = 54,950 minutes	6,210 minimum day minutes	61,160
Grade 2-3	350 minutes x 157 full days = 54,950 minutes	4,945 minimum day minutes	59,895
Grade 4-5	350 minutes x 157 full days = 54,950 minutes	4,945 minimum day minutes	59,895
Grade 6-7	350 minutes x 157 full days = 54,950 minutes	5,290 minimum day minutes	60,240
Grade 8	340 minutes x 157 full days = 53,380 minutes	5,520 minimum day minutes	60,470
		5,635 minimum day minutes	59,015

# Annual Day and Minute Requirement

School District



180 Days



TK/K	36, 000 minutes
1-3	50, 400 minutes
4-8	54, 000 minutes
9-12	64, 800 minutes

Charter School

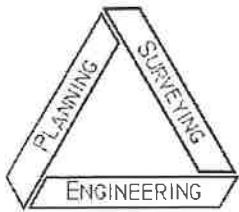


175 Days



TK/K	36, 000 minutes
1-3	50, 400 minutes
4-8	54, 000 minutes
9-12	64, 800 minutes





# NST ENGINEERING, INC.

1495 Riverside Drive • Susanville, CA 96130  
(530) 257-5173 • FAX (530) 257-6272

Jeffery A. Morrish, R.C.E.  
Vernon H. Templeton, R.L.S.

April 27, 2023

COST ESTIMATE  
FOR  
ENGINEERING SERVICES  
FOR  
RICHMOND SCHOOL DISTRICT  
700-585 RICHMOND ROAD  
SUSANVILLE, CA

Master Plan of Parking Lot Improvements

Topography Survey. . . . .	\$ 3,000 - 3,200
Meeting with School Officials and Preliminary Site Design . . . . .	\$ 3,800 - 4,500
Working Drawings for Parking Lot improvements. . . . .	\$ 7,500 - 8,000
Construction Cost Estimate (if requested) . . . . .	\$ 800 - 1,000
Trip to Sacramento for DSA Approval (if required). . . . .	\$ 1,600
Not to Exceed	\$ 20,000

Deposit Required . . . . . \$ 2,000

This Cost Estimate is based on surveying existing conditions, and preparing a Master Plan for Parking Lot improvements.

**WILLIAMS LAWSUIT SETTLEMENT**  
**QUARTERLY COMPLAINT SUMMARY FORM**

(Per the requirements of the Williams Lawsuit Settlement, each educational agency must report quarterly to its Governing Board and the County Superintendent of Schools any complaints received related to the Williams Lawsuit.)

- ☒ No, our District has not received any complaints relating to the Williams Lawsuit this quarter.
- ☐ Yes, our District has received a complaint(s) relating to the Williams Lawsuit.

If yes, please attach a copy of the complaint to this Summary Form (removing any confidential student information as appropriate). Please explain the District's resolution of the complaint(s)

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This Quarterly Complaint Summary Form is for the period ending:

- ☒ April 2023      ☐ July 2023      ☐ October 2023      ☐ January 2024

District: Richmond ESD      Date: 05/11/2023

Superintendent's Signature: \_\_\_\_\_

RICHMOND SCHOOL BOARD OF TRUSTEES  
REGULAR MEETING  
April 13, 2023  
MINUTES

CALL TO ORDER     The meeting was called to order at 6:02 p.m. Lead the flag salute.

MEMBERS PRESENT   Sadie Albonico, Nick McBride, Tracy Langslet, Adam Runyan, Daniel Bertotti

MEMBERS ABSENT   N/A

OTHERS PRESENT     Jan Demers, Jeanette Goni, Tim Andersen, Heather Cluck, Ida Bruce, Lenna Davis

PUBLIC COMMENT     Heather Cluck presented a letter of appreciation from staff to the Board.

AGENDA  
APPROVAL            MSCU (Runyan/McBride) approved the agenda.

**RCA**

RCA REPORT        4.1     Lenna Davis announced RCA Movie Night scheduled for April 14<sup>th</sup> at 5:30 p.m.

**Superintendent Report**

No Report

**Director of Buildings and Grounds**

PARKING LOT  
COMMITTEE        4.3.1     Tim reported that the committee met and Tim presented the PowerPoint presentation previously presented to the Board. He stated the committee liked the ideas with the first priority to be the removal of the tanks. Board members discussed not having been invited to the committee meeting.

KITCHEN UPDATE   4.3.2     Tim advised the Board that the appliances had been ordered and received a quote from an electrician. Tim also reported that the main freezer in the kitchen broke down and waiting for a part.

CONEX PURCHASE   4.3.3     Tim reported the purchase of two Conex storage units. One to be placed between 7<sup>th</sup> and 8<sup>th</sup> grade modular. There to be placed at the lower campus.

**Certificated Staff and Classified Staff Report**

CERTIFICATED  
STAFF              4.4.1     Ida Bruce discussed the academic activities in Kindergarten through 8<sup>th</sup> grade. She discussed classes would be attending the 5<sup>th</sup> Grade Volume Zoo. Shen said students were preparing for CAASPP Testing.

CLASSIFIED  
STAFF

4.4.2 No Report

### Curriculum/Student Performance

SPRING MAP 5.1 Jan DeMers reported that Spring MAP assessments are scheduled after CAASPP Testing,

CAASPP TESTING 5.2 Jan DeMers reported that CAASPP testing would be starting soon. She discussed that Lori Barry was certified to proctor the CAASPP testing.

### Business

HIRE A. PRETTYMAN  
7<sup>TH</sup> GR. TEACHER

6.1 MSCU (Bertotti/Langslet) approved to hire Andrea Prettyman on a Provisional Internship Permit to Teach 7<sup>th</sup> Grade.

CONTRACT W/  
AMBER BRYANT

6.2 There was discussing of executing a contract for services as a vendor with a 1099 versus compensating as an employee under a W-4.

MSCU (McBride/Runyan) approved contract based on 1099 clarification. Otherwise hire on a W-2.

23/24 SCHOOL  
CALENDAR

6.3 There was discussion from staff requesting to add minimum days every other week for PLC's in the 23/24 school calendar. This would be to reinstate collaboration among teachers to include classified staff. Further discussion took place of possible alternatives other than early release as requested. There was question of meeting instructional minutes. The Board requested parent input perhaps through a survey.

It was recommended to approve the calendar as presented to be able to report to the County Office of Education and other districts Richmond's first and last days of school as well as holiday breaks for the upcoming year.

MSCU (Langslet/Bertotti) approved the calendar and to conduct a survey to parents regarding preference of minimum day or late start and to clarify instructional minutes compliance. Jan DeMers to prepare survey.

ELOP PLAN

6.4 MSCU (Bertotti/Runyan) approved the Expanded Learning Opportunity Program.

ELOP STIPEND

6.5 MSCU (Runyan/Langslet) approved adding ELOP Stipend to 22/23 Stipend Schedule for a total of \$5,000 executing an MOU with RTA.

RTA AGREEMENT  
SIGNATURES

6.6 Signatures to Final RTA Contract Effective July 1, 2023, through June 30, 2025.

RTA SUNSHINE  
LETTER

- 6.7 MSCU (Langslet/Albonico) accepted Sunshine Letter from Richmond Teachers Association.

**Minutes**

- 7.1 MSCU (Bertotti/Runyan) approved the minutes of the special meeting on March 1, 2023.
- 7.2 MSCU (Runyan/Bertotti) approved the minutes of the regular meeting on March 14, 2023, with changes to Items 4.3.2 and 4.3.4.
- 7.3 MSCU (Bertotti/Langslet) approved the minutes of the special meeting on March 16, 2023.

**Policy**BOARD POLICY  
FIRST READING

- 8.1 The Board of Trustees reviewed the First Reading of the following Policy Updates.
- |             |  |
|-------------|--|
| E 3555:     | Nutrition Program Compliance   |
| BP 4030:    | Nondiscrimination In Employment                                      |
| BP 4218:    | Dismissal/Suspension/Disciplinary Action                             |
| AR 4218:    | Dismissal/Suspension/Disciplinary Action                             |
| AR 5113:    | Absences and Excuses   |
| AR 5131.41: | Use of Seclusion and Restraint                                       |
| AR 5144:    | Discipline   |
| AR 5144.1:  | Suspension and Expulsion/Due Process                                 |
| AR 5144.2:  | Suspension and Expulsion/Due Process<br>(Students with Disabilities) |
| AR 6115:    | Ceremonies and Observances   |
| BP 6173:    | Education for Homeless Children                                      |
| AR 6173:    | Education for Homeless Children                                      |
| BP 6173.1:  | Education for Foster Youth   |
| AR 6173.1:  | Education for Foster Youth   |
| Bylaw 9320: | Meetings and Notices   |

CAMPUS  
SECURITY

- 8.2 The Board of Trustees reviewed the First Reading of BP & AR 3515 – Campus Security.

**Warrants**

- 9.1 MSCU (McBride/Bertotti) approved the warrant list(s) for April

General:	\$84,811.45
Cafeteria:	<u>7,632.27</u>
	<b>\$92,443.72</b>

**Correspondence**

No Correspondence

**Information: Comments from Board Members**

No Comments

**Closed Session**

- 12.1 Pursuant to Government Code Section 54957.6, the Board met in Closed Session regarding Labor Negotiations for the following:
- Richmond Classified Staff
- 12.2 Pursuant to Government Code Section 54957.6, the Board met in Closed Session regarding Labor Negotiations for the following:
- Richmond Classified Management
- 12.3 Pursuant to Government Code Section 54957, the Board met in Closed Session regarding Public Employee/Discipline/Dismissal/Release
- 12.4 Pursuant to Government Code Section 54957.6, the Board met in Closed Session regarding Public Employee Matter:
- Superintendent/Principa;

**Reconvene Open Session**

- 13.1 Direction provided to Interim Superintendent/Principal, Jan DeMers, regarding Closed Session Items 12.1 and 12.2.

Direction provided to Interim Superintendent/Principal, Jan DeMers, regarding findings to be sent to complainants and respondents pursuant to Closed Session item 12.3.

**ADJOURNMENT**

Having no further business, the regular meeting adjourned at 9:45p.m.

**Exhibit 3555-E(2): Nutrition Program Compliance**

**Status:** DRAFT

**Original Adopted Date:** Pending

**NONDISCRIMINATION STATEMENT FOR NUTRITION PROGRAMS**

CSBA NOTE: As part of its instructions to all recipients of federal funds for child nutrition programs, the U.S. Department of Agriculture (USDA) requires that all forms of communication available to the public regarding program availability also contain information about that recipient's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the recipient. The following exhibit presents specific language provided by USDA for the notification, which must not be modified in any way.

The following statement shall be included, in a prominent location, on all forms available to the public regarding the availability of the district's child nutrition programs:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to the USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
- (2) fax: (833) 256-1665 or (202) 690-7442; or
- (3) email: [Program.Intake@usda.gov](mailto:Program.Intake@usda.gov)

This institution is an equal opportunity provider."

On pamphlets, brochures, and flyers, in the same print size as the rest of the text, the district may print a short version of the nondiscrimination statement, as follows:

"This institution is an equal opportunity provider."

**Policy 4030: Nondiscrimination In Employment**

Status: DRAFT

Original Adopted Date: 12/09/2014 | Last Revised Date: 12/15/2022

CSBA NOTE: The following Board policy and accompanying administrative regulation are mandated pursuant to 2 CCR 11023. The California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibits districts and district employees from harassing or discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, reproductive health decisionmaking, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression. Pursuant to Government Code 12940, these protections apply to employees, job applicants, persons who serve in an unpaid internship or other limited-duration program to gain unpaid work experience, volunteers, and independent contractors.

Additionally, protections are available under various provisions of federal law, including Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), the Americans with Disabilities Act (42 USC 12101-12213), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Genetic Information Nondiscrimination Act (42 USC 2000ff-2000ff-11).

For policy addressing sexual harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

The Board of Trustees is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees include job applicants, interns, volunteers, and persons who contracted with the district to provide services, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

CSBA NOTE: Government Code 12940, as amended by SB 523 (Ch. 630, Statutes of 2022), includes reproductive health decisionmaking as a characteristic for which employment discrimination is prohibited. Pursuant to Government Code 12926(y) "reproductive health decisionmaking" includes a person's decision to use or access a particular drug, device, product, or medical service for reproductive health.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decisionmaking, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

CSBA NOTE: 2 CCR 11028 prohibits inquiry into an employee's immigration status or discrimination on the basis of such status, unless the district provides clear and convincing evidence that it is required to do so in order to comply with federal immigration law. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel as necessary.

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that the district is required to do so in order to comply with federal immigration law. (2 CCR 11028)

CSBA NOTE: The following items illustrate unlawful discriminatory practices as specified in Government Code 12940. Labor Code 1197.5 prohibits the payment of different wage rates to employees for similar work based on sex, race, or ethnicity and prohibits the use of prior salary history by itself to justify any disparity in compensation under the bona fide factor exception.

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Hiring, compensation, terms, conditions, and other privileges of employment

CSBA NOTE: When disciplining an employee, the district must ensure that all the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. The Court held that since the prayer occurred during a break, a period when employees would ordinarily be free to engage in personal activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to offer a private, personal prayer. Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

2. Taking of adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities or that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment

CSBA NOTE: Item #4 below lists some, but not all, specific practices prohibited under Government Code 12940 or 2 CCR 11006-11086 in relation to certain protected categories. For example, because "sex" as defined in Government Code 12926 includes pregnancy, childbirth, breastfeeding, or related medical conditions, any of these conditions may be the basis for an employee's sex discrimination claim. As the specific prohibitions are too numerous to list in policy, it is recommended that CSBA's District and County Office of Education Legal Services or district legal counsel be consulted when questions arise as to any specific claim.

4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
  - a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status
  - b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
  - c. Requiring medical or psychological examination of a job applicant or making an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
  - d. Failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee

CSBA NOTE: Government 12940, as amended by SB 523, makes it unlawful for an employer to require disclosure of information relating to an applicant's or employee's reproductive health decisionmaking.

- e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decisionmaking

CSBA NOTE: Retaliation against complainants or other participants in the grievance procedures is prohibited by Government Code 12940 and 34 CFR 110.34. In addition to the general prohibition against retaliation, Government Code 12940 provides that an employee who requests accommodation for a physical or mental disability or religious belief is protected from retaliation as specified below. CSBA recommends that this protection be extended to all

protected characteristics, as provided below.

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

**CSBA NOTE:** Pursuant to Government Code 12964.5, the district is prohibited from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a nondisparagement agreement or similar document that would deny the employee the right to disclose information about unlawful acts in the workplace or requiring an employee to release the right to file a claim or civil action against the district.

Pursuant to Government Code 12964.5, the above prohibition applies not only to claims or complaints of sexual harassment or sexual assault, but to those involving harassment or discrimination based on any protected characteristic and to other unlawful employment practices under FEHA.

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the district or a nondisparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

**CSBA NOTE:** Pursuant to 2 CCR 11019, in certain instances, an employee's (especially a supervisor's) knowledge or notice of prohibited conduct of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940 provides that a district may be responsible for harassment of employees by nonemployees when the district knows or should have known of the conduct and failed to take immediate and corrective action, taking into consideration the extent of the district's control and other legal responsibility that the district may have with respect to the conduct of those nonemployees. See also BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

See the accompanying administrative regulation for requirements related to the identification of the employee who will be responsible for compliance with nondiscrimination laws.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent/Principal or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

**CSBA NOTE:** Government Code 12940 and 2 CCR 11023 require districts to take all reasonable steps to prevent prohibited discrimination and harassment, including, but not limited to, dissemination of the district's policy on the prevention of harassment, discrimination, and retaliation. Government Code 12950 and 2 CCR 11049 require districts to post, in prominent and accessible locations on district premises, posters developed by the California Civil Rights Department (CRD), formerly the Department of Fair Employment and Housing (DFEH), which are available on CRD's web site. In addition, Executive Order 11246 requires contractors and subcontractors who hold a single federal contract or subcontract in excess of \$10,000 or who hold contracts or subcontracts with the federal government in any 12-month period that have a total value of more than \$10,000 to display the U.S. Equal Employment Opportunity Commission "Know Your Rights: Workplace Discrimination is Illegal" poster in conspicuous places available to employees and applicants for employment and representatives of each labor union with which the covered contractor or subcontractor has a collective bargaining agreement. For further information on prevention strategies, see the accompanying administrative regulation.

The Superintendent/Principal or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent/Principal or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

CSBA NOTE: Government Code 12946 makes it an unlawful employment practice for a district to fail to maintain certain records and files for employees, applicants, and terminated employees, as provided in the following paragraph.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

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

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: The following policy is for use by districts that have not incorporated the merit system for classified employees pursuant to Education Code 45240-45320. For procedures applicable to districts that have incorporated the merit system, see BP/AR 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System).

The following policy is subject to collective bargaining and may be deleted or revised by any district whose collective bargaining agreement covers classified employee dismissal, suspension, and other disciplinary action. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail.

The ~~Board of Trustees~~**Governing Board** expects all employees to perform their jobs satisfactorily and to exhibit professional and appropriate conduct. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law or any applicable collective bargaining agreement, Board policy, or administrative regulation.

CSBA NOTE: When disciplining an employee, the district must ensure that all the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. According to the Court, since the prayer, a religious activity, occurred during a period when employees would ordinarily be free to engage in personal secular activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to engage in a personal religious activity such as offering a prayer. Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. An employee's private exercise of personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950.

Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension without pay, reduction of pay step in class, compulsory leave, and dismissal.

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

A probationary classified employee may be dismissed without cause at any time prior to the expiration of the probationary period.

CSBA NOTE: Education Code 45113 mandates districts not incorporating the merit system to prescribe, by written rule or regulation, causes and procedures for disciplinary action against permanent classified employees. Also see the accompanying administrative regulation.

Permanent classified employees shall be subject to disciplinary action only for cause as specified in the accompanying administrative regulation. (Education Code 45113)

## Procedures for Serious Disciplinary Proceedings

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

In *Skelly v. State Personnel Board*, the California Supreme Court held that permanent public employees have a right to certain due process protections prior to any punitive disciplinary action, such as termination, suspension, or demotion. These procedural rights include notice of the proposed materials upon which the action is based and the right to respond, either orally or in writing, to the individual recommending that discipline be imposed. These procedural rights are designed to protect an employee who may be wrongfully disciplined, without necessitating a full evidentiary hearing before the Governing Board. Therefore, CSBA recommends that the Superintendent or designee appoint a Skelly officer to evaluate whether there are reasonable grounds for believing that the employee engaged in the alleged misconduct and whether the proposed discipline is justified.

The Superintendent or designee shall develop disciplinary procedures for use when dismissal, suspension, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for such discipline shall include an opportunity for an employee for whom any such disciplinary action is recommended to meet with, or respond in writing to, a designated district official ("Skelly officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn.

CSBA NOTE: Pursuant to Education Code 45113 and 45116, a permanent classified employee must be given notice of any disciplinary action against the employee, including a time period during which the employee may request a Board hearing on the charges. See the section "Initiation and Notification of Charges" in the accompanying administrative regulation.

Pursuant to Education Code 45113, the Board may delegate its authority to determine whether sufficient cause exists for disciplinary action against classified employees, excluding peace officers as defined in Penal Code 830.32, to an impartial third-party hearing officer. Hearings conducted by the Board or a hearing officer are not subject to the procedures used by the Office of Administrative Hearings pursuant to Government Code 11500-11529. Districts that refer all serious disciplinary matters to a third-party hearing officer rather than holding Board hearings should revise the remainder of this section accordingly.

Education Code 45113 requires the Board to delegate its authority to an administrative law judge in cases involving allegations of egregious misconduct with a minor. Egregious misconduct is defined as immoral conduct leading to an allegation of a sex offense pursuant to Education Code 44010, a controlled substance offense pursuant to Education Code 44011, or child abuse or neglect pursuant to Penal Code 11165.2-11165.6.

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly review process. The notice shall include a statement advising the employee of the right to request a Board hearing on the matter.

If the employee fails to request a hearing within the time specified in the notice, the employee is deemed to have waived the right to do so, and the Board may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the Board. (Education Code 45113, 45312)

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

A classified employee who timely requests a hearing may only be suspended, demoted, or dismissed pending the outcome of the hearing in accordance with Education Code 45113, and as specified in the accompanying administrative regulation.

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The employee shall be notified of the time and place of the hearing.

The hearing shall be held in closed session, unless the employee requests that the matter be heard in an open session

meeting. (Government Code 54957)

The employee shall be entitled to appear personally, produce evidence, and be represented by legal counsel.

The Board may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law. The Board may review and consider the records of any prior personnel action proceedings against the employee in which a disciplinary action was ultimately sustained, and any records contained in the employee's personnel files and introduced into evidence at the hearing. The Board shall not be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made by the Board.

At any time before a matter is submitted to the Board for decision, the Superintendent or designee may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of disciplinary action. If the amended or supplemental recommendation includes new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

Following the hearing or, if the employee has not requested a hearing, after reviewing the Superintendent or designee's recommendation for disciplinary action, the Board shall affirm, modify, or reject the recommended disciplinary action. The decision of the Board shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the Board shall be final.

Within 10 working days of the Board's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

Except for an allegation of egregious misconduct in which a minor is involved, the Board may delegate the authority to determine whether sufficient cause exists for disciplinary action to an impartial third-party hearing officer. When a matter is heard by a third-party hearing officer, the Board shall review the determination and adopt or reject the recommended decision. (Education Code 45113)

CSBA NOTE: Pursuant to Education Code 44990, an administrative law judge in a suspension or dismissal hearing is required to preserve the integrity of the truth-finding function by balancing the right of a classified employee against the need to protect a minor witness.

When any matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a witness who is a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. In such cases, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45113)

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

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

**Causes for Disciplinary Action**

CSBA NOTE: The following section should be revised to reflect district practice. Education Code 45113 mandates districts not incorporating the merit system to prescribe, by rule or regulation, causes for disciplinary action against permanent classified employees. Pursuant to Education Code 45101, such employees may be disciplined only for cause as so prescribed.

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

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

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)
3. Unlawful discrimination, including harassment, against any student or other employee
4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure
5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records
6. Unsatisfactory performance
7. Unprofessional conduct
8. Dishonesty
9. Neglect of duty or absence without leave
10. Insubordination
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance
12. Destruction or misuse of district property
13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

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

14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law

15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job
16. Violation of Education Code 45303 or Government Code 1028 prohibiting the advocacy or teaching of communism
17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

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

### Initiation and Notification of Charges

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

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

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

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

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

### Request for Board Hearing

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

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the notice. (Education Code 45113)

Any other written document signed and appropriately filed within the specified time limit by the employee shall

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

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

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

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

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

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

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

### **Compulsory Leave of Absence**

CSBA NOTE: State law requires that classified employees in merit system districts and certificated employees be immediately placed on compulsory leave of absence when the district has been informed that charges have been filed on a mandatory leave of absence offense specified in Education Code 44940, and gives districts discretion to place such employees on leave for other specified offenses. Existing law does not provide for application to classified employees in nonmerit system districts regarding compulsory leave of absence.

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

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

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

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if

the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing on the dismissal.

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**Regulation 5113: Absences And Excuses**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

**Excused Absences**

CSBA NOTE: Items #1-16 below reflect absences that are authorized by law to be considered as excused absences for purposes of enforcing the compulsory state attendance laws. Pursuant to Education Code 48205, absences specified in Items #1-12, although excused for purposes of enforcing compulsory state attendance laws, are considered absences in computing average daily attendance and do not generate state apportionment payments.

Subject to any applicable limitation, condition, or other requirement specified in law, a student's absence shall be excused for any of the following reasons:

1. Personal illness, including absence for the benefit of the student's mental or behavioral health. (Education Code 48205)
2. Quarantine under the direction of a county or city health officer. (Education Code 48205)
3. Medical, dental, optometrical, or chiropractic service or appointment. (Education Code 48205)
4. Attendance at funeral services for a member of the student's immediate family. (Education Code 48205)

Such absence shall be limited to one day if the service is conducted in California or three days if the service is conducted out of state. (Education Code 48205)

5. Jury duty in the manner provided for by law. (Education Code 48205)

CSBA NOTE: Pursuant to Education Code 48205, absence due to the illness or medical appointment of a student's child is counted as an excused absence, and the district is prohibited from requiring a physician's note for such absences. See the section "Method of Verification" below.

6. Illness or medical appointment of a child to whom the student is the custodial parent. (Education Code 48205)
7. Upon advance written request by the parent/guardian and the approval of the principal or designee, justifiable personal reasons including, but not limited to: (Education Code 48205)
  - a. Appearance in court
  - b. Attendance at a funeral service
  - c. Observance of a religious holiday or ceremony
  - d. Attendance at religious retreats for no more than four hours per semester
  - e. Attendance at an employment conference
  - f. Attendance at an educational conference on the legislative or judicial process offered by a nonprofit organization

8. Service as a member of a precinct board for an election pursuant to Elections Code 12302. (Education Code 48205)

9. To spend time with an immediate family member who is an active duty member of the uniformed services, as defined in Education Code 49701, and has been called to duty for deployment to a combat zone or a combat support position or is on leave from or has immediately returned from such deployment. (Education Code 48205)

Such absence shall be granted for a period of time to be determined at the discretion of the Superintendent/Principal or designee. (Education Code 48205)

10. Attendance at the student's naturalization ceremony to become a United States citizen. (Education Code

#### 48205)

11. Participation in a cultural ceremony or event which relates to the habits, practices, beliefs, and traditions of a certain group of people. (Education Code 48205)

CSBA NOTE: Pursuant to Education Code 48205, as amended by SB 955 (Ch. 921, Statutes of 2022), districts are required to allow an excused absence for middle and high school students one school day per school year for the purpose of engaging in a civic or political event, provided that the student notifies the school in advance. At the discretion of the Superintendent or designee, additional such absences may be permitted.

12. For a middle school or high school student, engagement in a civic or political event, provided that the student notifies the school ahead of the absence. Unless otherwise permitted by the Superintendent/Principal or designee, students shall be limited to one such school day-long absence per school year. (Education Code 48205)

CSBA NOTE: Pursuant to Education Code 46014, with the written consent of the student's parent/guardian, districts may excuse a student from school in order to participate in religious exercises or instruction.

In order for the district to receive average daily attendance funding for such absences, the Governing Board must first adopt a resolution permitting an excused absence for this purpose and regulations governing students' attendance at religious exercises or instruction and the reporting of such absences.

The student must also attend school for at least the minimum school day and not be absent for this purpose on more than four days per school month. Pursuant to Education Code 46112, 46113, 46117, and 46141, unless otherwise provided by law, the minimum school day is generally 180 minutes for kindergarten, 230 minutes for grades 1-3, and 240 minutes for grades 4-12. For further information, see AR 6112 - School Day. These regulations should include all of Item #13 below and may be expanded to reflect district practice.

13. Participation in religious exercises or to receive moral and religious instruction at the student's place of worship or other suitable place away from school property as designated by the religious group, church, or denomination. (Education Code 46014)

Absence for student participation in religious exercises or instruction shall not be considered an absence for the purpose of computing average daily attendance if the student attends at least the minimum school day as specified in AR 6112 - School Day, and is not excused from school for this purpose on more than four days per school month. (Education Code 46014)

14. Work in the entertainment or allied industry. (Education Code 48225.5)

Work for a student who holds a work permit authorizing work in the entertainment or allied industries for a period of not more than five consecutive days. For this purpose, student absence shall be excused for a maximum of up to five absences per school year. (Education Code 48225.5)

15. Participation with a nonprofit performing arts organization in a performance for a public school audience. (Education Code 48225.5)

A student may be excused for up to five such absences per school year provided that the student's parent/guardian provides a written explanation of such absence to the school. (Education Code 48225.5)

16. Other reasons authorized at the discretion of the principal or designee based on the student's specific circumstances. (Education Code 48205, 48260)

For the purpose of the absences described above, immediate family means the student's parent/guardian, brother or sister, grandparent, or any other relative living in the student's household. (Education Code 48205)

#### Method of Verification

CSBA NOTE: Education Code 48205 prohibits the district from requiring a physician's note for absences due to the illness or medical appointment of the student's child. However, the district is authorized to require verification of other absences. The following section should be revised to reflect district-adopted methods of verification and to specify employee(s) assigned to verify absences.

5 CCR 420-421 provide guidelines for verifying absences due to illness; quarantine; medical, dental, or eye appointments; or attendance at a funeral service of a member of a student's immediate family. 5 CCR 421 authorizes a student's absence to be verified by a school or public health nurse, attendance supervisor, physician, principal, teacher, or any other qualified district employee assigned to make such verification.

Student absence to care for a child for whom the student is the custodial parent shall not require a physician's note. (Education Code 48205)

For other absences, the student shall, upon returning to school following the absence, present a satisfactory explanation, either in person or by written note, verifying the reason for the absence. Absences shall be verified by the student's parent/guardian, other person having charge or control of the student, or the student if age 18 or older. (Education Code 46012; 5 CCR 306)

When an absence is planned, the principal or designee shall be notified prior to the date of the absence when possible.

The following methods may be used to verify student absences:

1. Written note, fax, email, or voice mail from parent/guardian or parent representative.
2. Conversation, in person or by telephone, between the verifying employee and the student's parent/guardian or parent representative. The employee shall subsequently record the following:
  - a. Name of student
  - b. Name of parent/guardian or parent representative
  - c. Name of verifying employee
  - d. Date(s) of absence
  - e. Reason for absence
3. Visit to the student's home by the **verifying employee, or any other reasonable method which establishes the fact that the student was absent for the reasons stated. The employee shall document the verification and include the information specified in Item #2 above.**
4. Physician's verification.

CSBA NOTE: The following optional paragraph provides a means of verifying an excuse for confidential medical services without inquiring into the nature of the medical services.

- a. When excusing students for confidential medical services or verifying such appointments, district staff shall not ask the purpose of such appointments but may request a note from the medical office to confirm the time of the appointment.

CSBA NOTE: The following optional paragraph provides that, after absences for illness on multiple occasions, the student may be required to bring a note from a physician to verify the illness. If a student does not have access to medical services in order to obtain such verification, the district may assist the student in obtaining the medical consultation if it is required.

- b. If a student shows a pattern of chronic absenteeism due to illness, district staff may require physician verification of any further student absences.

### Parental Notifications

At the beginning of each school year, the Superintendent/**Principal** or designee shall:

CSBA NOTE: The requirement in Item #1 below is for use by districts whose board has adopted a resolution permitting an excused absence for religious instruction or exercises. See the accompanying Board policy and Item #13 in the section "Excused Absences" above.

1. Notify parents/guardians of the right to excuse a student from school in order to participate in religious

exercises or to receive moral and religious instruction at their places of worship, or at other suitable places away from school property designated by a religious group, church, or denomination. (Education Code 46014, 48980)

CSBA NOTE: The requirement in Item #2 applies to all districts. Districts that maintain only elementary grades should delete the reference to students in grades 7-12.

2. Notify students in grades 7-12 and the parents/guardians of all students enrolled in the district that school authorities may excuse any student from school to obtain confidential medical services without the consent of the student's parent/guardian. (Education Code 46010.1)
  3. Notify parents/guardians that a student shall not have a grade reduced or lose academic credit for any excused absence if missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time. Such notice shall include the full text of Education Code 48205. (Education Code 48980)
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**Regulation 5131.41: Use Of Seclusion And Restraint**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: Pursuant to Education Code 49005-49006.4, seclusion and behavioral restraint, as defined below, are prohibited as a means of student discipline. Seclusion and restraint must be avoided whenever possible and may be used only to control behavior that poses a clear and present danger of serious physical harm to a student or others and that cannot be immediately prevented by a less restrictive response.

Pursuant to Education Code 49005.1 and 49006.4, these requirements apply to all students in grades preK-12 and students with disabilities. For additional procedures applicable to students with disabilities, see AR 6159.4 - Behavioral Interventions for Special Education Students.

District staff shall enforce standards of appropriate student conduct in order to provide a safe and secure environment for students and staff on campus but are prohibited from using seclusion and behavioral restraint to control student behavior except as authorized by law when the behavior poses a clear and present danger of serious physical harm to the student, other students, or others on campus, and that cannot be immediately prevented by a less restrictive response.

### Definitions

*Behavioral restraint* includes mechanical restraint or physical restraint used as an intervention when a student presents an immediate danger to self or to others. Behavioral restraint does not include postural restraints or devices used to improve a student's mobility and independent functioning rather than to restrict movement. (Education Code 49005.1)

*Mechanical restraint* means the use of a device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include the use of devices as prescribed by an appropriate medical or related services professional, including, but not limited to, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment; vehicle safety restraints during the transport of a student; restraints for medical immobilization; or orthopedically prescribed devices which permit a student to participate in activities without risk of harm. Mechanical restraint also does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

*Physical restraint* means a personal restriction that immobilizes or reduces the ability of a student to move the torso, arms, legs, or head freely. Physical restraint does not include a physical escort in which a staff member temporarily touches or holds the student's hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint also does not include the use of force by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

*Prone restraint* means the application of a behavioral restraint on a student in a facedown position. (Education Code 49005.1)

*Seclusion* means the involuntary confinement of a student alone in a room or an area from which the student is physically prevented from leaving. Seclusion does not include a timeout involving the monitored separation of the student in an unlocked setting, which is implemented for the purpose of calming the student. (Education Code 49005.1)

### Prohibitions

Seclusion and behavioral restraint of students shall not be used in any form as a means of coercion, discipline, convenience, or retaliation. (Education Code 49005.8)

In addition, staff shall not take any of the following actions: (Education Code 49005.2, 49005.8)

1. Administer a drug that is not a standard treatment for a student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement
2. Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use as a locked room

3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places the staff member's body weight against the student's torso or back
4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face
5. Place a student in a facedown position with the student's hands held or restrained behind the student's back
6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others

#### Limited Use of Seclusion or Restraint

Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion or behavioral restraint may be used only to control student behavior that poses a clear and present danger of serious physical harm to the student or others, which cannot be immediately prevented by a response that is less restrictive. (Education Code 49005.4, 49005.6, 49005.8)

When used, seclusion or restraint shall not be applied for longer than is necessary to contain the dangerous behavior. For any situation that requires a prolonged use of an emergency intervention, staff shall seek the assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

If a student is put in seclusion, the student shall be under constant, direct observation of a staff member. Such observation may be through a window or another barrier through which the staff member is able to make direct eye contact with the student, but shall not be made through indirect means such as a security camera or closed-circuit television. (Education Code 49005.8)

If a student is restrained, staff shall afford the student the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others. (Education Code 49005.8)

If a prone restraint technique is used on a student, a staff member shall observe the student for any signs of physical distress throughout the use of the restraint. Whenever possible, the staff member monitoring the student shall not be involved in restraining the student. (Education Code 49005.8)

CSBA NOTE: In a December 2022 resolution agreement between Davis Joint Unified School District and the U.S. Department of Education, Office for Civil Rights (OCR) following an investigation into the use of seclusion and restraint, OCR found that use of such measures on students with disabilities must comply with section 504 of the Rehabilitation Act of 1974 and the implementing regulations. See AR 6159.4 for additional information regarding behavioral interventions and the use of seclusion or restraint for students with disabilities.

Seclusion or restraint may only be applied to a student with disabilities in accordance with rules specified in AR 6159.4 Behavioral Interventions For Special Education Students. Staff may not apply seclusion or restraint to students with disabilities based on assumptions or stereotypes about disabilities or students with disabilities or for behavior that would not result in restraint or seclusion for students without disabilities.

CSBA NOTE: The following paragraph is consistent with OCR's recommendation in its resolution agreement with Davis Joint Unified School district and a good practice to follow with respect to use of seclusion or restraint of all students.

The Superintendent/Principal or designee shall provide training to staff in the safe and effective use of seclusion and restraint as appropriate.

#### Documentation of Seclusion and Restraint

Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. (Education Code 56521.1)

A behavior emergency report shall be completed and forwarded to the Superintendent or designee for review. This report shall include: (Education Code 56521.1)

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 behavior intervention plan
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident

## Reports

CSBA NOTE: Pursuant to Education Code 49006, districts are required to collect data and report to the California Department of Education (CDE) annually in regard to the use of seclusion and behavioral restraints for district students, as specified below. CDE is required to post the data from the report on its web site within three months after the report is due to CDE.

The Superintendent/Principal or designee shall annually collect data on the number of times that seclusion, mechanical restraint, and physical restraint were used on students and the number of students subjected to such techniques. The data shall be disaggregated by race/ethnicity and gender, and reported for students with a Section 504 plan, students with an individualized education program, and all other students. This report shall be submitted to the California Department of Education no later than three months after the end of each school year, and shall be available as a public record pursuant to Government Code 6250-6270. (Education Code 49006)

**Regulation 5144: Discipline**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

**Site-Level Rules**

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

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

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

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

CSBA NOTE: Item #5 below may be deleted by elementary districts.

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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 35291.5 authorizes, but does not require, each school site to adopt school rules every four years. However, it is recommended that the timelines for the review of school rules be aligned with those for the review and updating of the comprehensive safety plan, since the school rules must, by law, be included in the plan. Pursuant to Education Code 32286, the comprehensive safety plan must be reviewed and updated every year by March 1; see BP/AR 0450 - Comprehensive Safety Plan.

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

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

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

**Disciplinary Strategies**

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

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

1. Discussion or conference between school staff, the student, and the student's parents/guardians
2. Referral of the student to the school counselor or other school support service personnel for case management and counseling
3. Convening of a study team, guidance team, resource panel, or other intervention-related team to assess the behavior and develop and implement an individual plan to address the behavior in partnership with the student and the student's parents/guardians
4. When applicable, referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program or a Section 504 plan
5. Enrollment in a program for teaching prosocial behavior or anger management
6. Participation in a restorative justice program
7. A positive behavior support approach with tiered interventions that occur during the school day on campus
8. Participation in a social and emotional learning program that teaches students the ability to understand and manage emotions, develop caring and concern for others, make responsible decisions, establish positive relationships, and handle challenging situations capably

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

9. Participation in a program that is sensitive to the traumas experienced by students, focuses on students' behavioral health needs, and addresses those needs in a proactive manner
10. After-school programs that address specific behavioral issues or expose students to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups
11. Recess restriction as provided in the section below entitled "Recess Restriction"
12. Detention after school hours as provided in the section below entitled "Detention After School"
13. Community service as provided in the section below entitled "Community Service"
14. In accordance with Board policy and administrative regulation, restriction or disqualification from participation in extracurricular activities
15. Reassignment to an alternative educational environment
16. Suspension and expulsion in accordance with law, Board policy, and administrative regulation

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

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

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

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

policies.

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

### Recess Restriction

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

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

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

1. The student shall be given adequate time to use the restroom and get a drink or eat lunch, as appropriate.
2. The student shall remain under a certificated employee's supervision during the period of restriction.
3. The student's teacher shall inform the Superintendent/Principal principal of any recess restrictions imposed.

### Detention After School

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

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

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

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

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

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

### Community Service

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

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

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

Code 48900.6)

**Notice to Parents/Guardians and Students**

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

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

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**Regulation 5144.1: Suspension And Expulsion/Due Process**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of regular district practice regarding the approval of administrative regulations.

Education Code 35291 requires the Board to adopt rules and regulations, which are not inconsistent with law or rules adopted by the State Board of Education, for the government and discipline of the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 mandate that districts adopt rules concerning the due process rights of students in expulsion situations, and Education Code 48916 mandates procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation.

**Definitions**

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910, so long as removal from a particular class does not occur more than once every five school days.

*Expulsion* means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

**Notice of Regulations**

At the beginning of each school year, the Superintendent/Principal principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

**Grounds for Suspension and Expulsion: Grades K-12**

CSBA NOTE: The acts for which students may be suspended or expelled are specified in law, the following section, and the sections below titled "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12." The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. In addition, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct.

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

CSBA NOTE: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm

(pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. Note that "firearm" does not include "imitation firearm" which is listed separately in Item #12 below. See BP 5131.7 - Weapons and Dangerous Instruments.

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the Superintendent/Principal ~~principal~~ or designee's concurrence (Education Code 48900(b))
3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the same as a controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

*Imitation firearm* means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

*Hazing* means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 48900(r))

CSBA NOTE: Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of electronic act," which is directed toward a student and which would have serious detrimental consequences upon a reasonable student. Pursuant to Education Code 48900, a student may be disciplined for bullying by means of an electronic act even when the act originated off campus. See also AR 5131.2 - Bullying.

*Bullying* means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student(s) in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

CSBA NOTE: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation committed by a student at any grade level, as set forth in Education Code 48900.2, 48900.3, or 48900.4, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may be disciplined for the "bullying" but not for the underlying act of sexual harassment, hate violence, or harassment, threat, or intimidation as specified below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12."

*Bullying* includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

*Bullying* also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

*Electronic act* means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

*Reasonable student* means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

*Burn page* means an internet web site created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

*Credible impersonation* means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

*False profile* means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (Education Code 48900(r))

CSBA NOTE: Education Code 48900(t) allows for the suspension, but not expulsion, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. The term "aiding or abetting," is a complex legal term and requires that, at the time the crime was committed, the aider or abettor was aware of the crime and specifically intended to commit the crime. Because of the complexities of criminal law, CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as appropriate.

Pursuant to Education Code 48900(t), any student who aids or abets a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury is subject to suspension or expulsion as provided in Item #1 above.

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying out the crime. (Education Code 48900.7)

#### **Additional Grounds for Suspension and Expulsion: Grades 4-12**

CSBA NOTE: The following section applies only to students in grades 4-12 and may be revised to reflect grade levels offered by the district.

As discussed in Item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving Items #1-3 below, Education Code 48900.2-48900.4 provide that only students in grades 4-12 may be **suspended or expelled** for the individual acts that constitute sexual harassment, hate violence, and harassment. Because the interplay between "bullying" and Items #1-3 can raise complex legal issues, districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel, as appropriate.

A student in grades 4-12 shall be subject to **suspension or recommendation** for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

*Sexual harassment* means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

*Hate violence* means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)

#### **Additional Grounds for Suspension and Expulsion: Grades 9-12**

CSBA NOTE: Pursuant to Education Code 48900(k), students in grades K-8 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these

grounds. Since districts are authorized but not required to suspend students in grades 9–12 based on these grounds, the following section is for use only by districts that selected Option 1 in the section "Appropriate Use of Suspension Authority" in the accompanying Board policy. Districts that selected Option 2 in the accompanying Board policy, thereby prohibiting the use of these reasons for suspending students at any grade level, should delete the following section:

None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910. See the section "Suspension from Class by a Teacher" below:

Any student in grades 9–12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

#### **Suspension from Class by a Teacher**

**CSBA NOTE:** The following section is optional and may be revised to reflect district practice. While Education Code 48900(k) prohibits a district from suspending students in grades K–8 for disruption or willful defiance, it still allows for a teacher to suspend a K–8 student on these grounds.

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as Items #1–19 under "Grounds for Suspension and Expulsion: Grades K–12" above or for disruption or willful defiance at any grade level, including grades K–8. (Education Code 48910) When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910) As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910) A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910) A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910) A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (Education Code 48910) The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

#### **Suspension by Superintendent/Principal, Principal or Principal's Designee**

To implement disciplinary procedures at a school site, the Superintendent/Principal principal may, in writing, designate as the Superintendent/Principal/principal's designee another administrator or, if the Superintendent/Principal/principal is the only administrator at the school site, a certificated employee. As necessary, the Superintendent/Principal principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the Superintendent/Principal principal and the Superintendent/Principal's principal's primary designee are absent from the school site.

The Superintendent/Principal, principal, or designee shall immediately suspend any student found at school or at a school activity away from school to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code 48915(c))

**CSBA NOTE:** Education Code 48900.5 limits situations warranting suspension for a first offense to when the violation involves Education Code 48900(a)–(e) or the student's presence causes a danger to persons.

The Superintendent/Principal, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of Items #1–5 listed under "Grounds for Suspension and Expulsion: Grades K–12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

**CSBA NOTE:** Pursuant to Education Code 48900 and 48915, except for certain egregious acts or offenses for which suspension is permissible or mandatory, as specified above pursuant to Education Code 48915(a) or (c), the Superintendent or principal is authorized to provide an alternative, age-appropriate disciplinary measure that is tailored to correct a student's specific misbehavior. In addition, the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (which has been under review by

DOJ and OCR since July 30, 2021), recommend that effective alternatives to suspension and expulsion be implemented for correcting student misbehavior. For a list of appropriate alternatives, see AR 5144 - Discipline.

For all other offenses, a student may be suspended only when the Superintendent/~~Principal, principal,~~ or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension upon a student, including supervised suspension, the Superintendent/~~Principal, principal,~~ or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

### Length of Suspension

The Superintendent/~~Principal, principal,~~ or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school or class, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

### Due Process Procedures for Suspension

CSBA NOTE: District disciplinary procedures are generally subject to basic constitutional due process requirements, such as the provision of notice and/or hearing, especially with respect to suspension, involuntary transfer, expulsion, or other serious disciplinary actions. However, when dealing with certain categories of students, additional procedures apply. For example, when considering suspension of a student who is a foster youth or Indian child, as defined in Welfare and Institutions Code 224.1, Education Code 48853.5, 48911, 48911.1, and 48915.5, as amended by AB 740 (Ch. 400, Statutes of 2022), require that the foster youth's educational rights holder, attorney, and county social worker receive specified notifications in relation to the suspension, and for an Indian child, the child's tribal social worker, and if applicable, county social worker. See Items #1, 3, 5, and 6 below.

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent/~~Principal, principal,~~ or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence in the student's defense. (Education Code 48911)

This conference may be omitted if the Superintendent/~~Principal, principal,~~ or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school for the conference. (Education Code 48911)

CSBA NOTE: Item #2 below should be revised to reflect the district's processing and reporting procedures.

2. Administrative Actions: All requests for student suspension are to be processed by the Superintendent/~~Principal, principal,~~ or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent/~~Principal~~ or designee. (Education Code 48911)
3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort

to contact the parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

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

4. In addition, the notice may state the date and time when the student may return to school.
5. Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference. (Education Code 48911)

6. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent/Principal or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)
  - a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.
  - b. The Superintendent/Principal or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process.

CSBA NOTE: When the student being considered for expulsion is a foster youth or Indian child, Education Code 48911 and 48918.1, as amended by AB 740, require the district to invite the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to the meeting specified above. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children."

- c. If the student involved is a foster youth or Indian child, the Superintendent/Principal or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

CSBA NOTE: Pursuant to Education Code 48918.1, the district's liaison for homeless students must be notified when the student being considered for expulsion is a homeless student. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students."

- d. If the student involved is a homeless child or youth, the Superintendent/Principal or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Since Education Code 48900 and 48900.5 require a district, under certain circumstances, to use alternative disciplinary measures prior to imposing suspension, including supervised suspension, the district may, as necessary, provide services that would address the student's specific misbehavior along with the

suspension program. For example, the district may require the student to enroll in a program that teaches prosocial behavior or anger management even while the student is suspended.

- e. In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

#### **Suspension by the Board**

CSBA NOTE: The following optional section reflects the Board's authority to suspend students from school pursuant to Education Code 48912. In practice, it is impractical for boards to directly exercise this authority since circumstances warranting suspension usually require quick and sometimes immediate action which may not be possible for a board due to legal requirements for taking board actions, such as having a meeting.

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912) The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5) When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912) The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

#### **On-Campus Suspension**

CSBA NOTE: The following optional section is for use by any district establishing an on-campus suspension program pursuant to Education Code 48911.1. However, pursuant to Education Code 48900.5, such a district is required to use other means of correcting a student's behavior before imposing a supervised suspension, unless such a supervised suspension is otherwise permitted by law for a student's first offense. Use of a supervised suspension classroom program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class in accordance with law.

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

CSBA NOTE: Education Code 48911.1, as amended by AB 740, requires notification to a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, of a student's assignment to an on-campus suspension classroom.

At the time a student is assigned to an on-campus suspension classroom, the Superintendent/Principal/principal or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

#### **Superintendent/Principal's or Principal's Authority to Recommend Expulsion**

Unless the Superintendent/~~Principal or principal~~ determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent/~~Principal or principal~~ shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11059, except for:
  - a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
  - b. The student's possession of over-the-counter medication for use by the student for medical purposes
  - c. Medication prescribed for the student by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether to recommend the expulsion of a student, the Superintendent/~~Principal, principal,~~ or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

#### Student's Right to Expulsion Hearing

CSBA NOTE: Education Code 48918 mandates that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (Garcia v. Los Angeles Board of Education). In calculating timelines, the district should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918.

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

#### Stipulated Expulsion

CSBA NOTE: The following section is optional and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive the right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained to them before the agreement is signed. Districts should consult with CSBA's

District and County Office of Education Legal Services or district legal counsel as appropriate.

After a determination that a student has committed an offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after written notice of the expulsion hearing pursuant to Education Code 48918 has been given. The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel. A stipulated expulsion agreed to by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, shall be effective upon approval by the Board.

### **Rights of Complaining Witness**

CSBA NOTE: Education Code 48918.5 mandates the following rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation.

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent/Principal or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the Superintendent/Principal or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

1. Receive five days' notice of the scheduled testimony at the hearing
2. Have up to two adult support persons present at the hearing at the time the witness testifies
3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent/Principal or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

### **Written Notice of the Expulsion Hearing**

CSBA NOTE: Education Code 48918 mandates the Board to adopt procedures that include the following items.

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

#### **Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children**

CSBA NOTE: Prior to conducting an expulsion hearing to determine whether a foster youth or Indian child should be expelled, Education Code 48918.1, as amended by AB 740, requires the district to notify the foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker and, if applicable, county social worker, provided that the violation does not require a mandatory recommendation for expulsion. Pursuant to Education Code 48918.1, such additional notice must be given to the district liaison for homeless students when the student involved is a homeless child or youth and the violation does not require a mandatory recommendation for expulsion. While such a notice is not required if the offense requires a mandatory recommendation for expulsion, it is nonetheless recommended and the following section reflects this recommendation.

If the student facing expulsion is a foster student or Indian child, the Superintendent/Principal or designee shall also send notice of the hearing to the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent/Principal or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 calendar days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

#### **Conduct of Expulsion Hearing**

CSBA NOTE: Education Code 48918 mandates that the Board adopt procedures that include the following items.

Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or an impartial administrative panel to conduct the hearing; see section "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel" below. Even if the district conducts all expulsion hearings in this manner, the requirements of Education Code 48918 pertaining to the conduct of the hearing must be met.

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

CSBA NOTE: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.

2. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm,

including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

3. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

CSBA NOTE: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In *Woodbury v. Dempsey*, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases.

In accordance with Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena.

4. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent/Principal or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent/Principal or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in Item #6 below. (Education Code 48918(i))

5. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

CSBA NOTE: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code; the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

6. Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

CSBA NOTE: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b).

7. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person who is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
  - i. The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
  - ii. At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.
  - iii. The person conducting the hearing may:
    - A. Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
    - B. Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours
    - C. Permit one of the support persons to accompany the complaining witness to the witness stand

- 8. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

#### **Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

**CSBA NOTE:** For districts that use a hearing officer or administrative panel, Education Code 48918 mandates that the Board adopt procedures that include the following section.

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

**CSBA NOTE:** Pursuant to Education Code 48918, if the hearing officer or administrative panel does not recommend expulsion, a student must be permitted to return to the classroom instructional program from which the expulsion referral was made, unless the student's parent/guardian requests a different placement. Education Code 48918 also states that a student who is found to have committed any of the violations listed in "Authority to Expel" in the accompanying Board policy but for whom expulsion is not recommended may be referred to the student's prior school, or another district comprehensive or continuation school. However, the hearing officer or administrative panel, like the Board, must recommend expulsion or a suspended expulsion under Education Code 48915, if it finds that a student committed any such violation that mandates expulsion. District should consult CSBA's District and County Office of Education Legal Services or district legal counsel to resolve this apparent discrepancy.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent/Principal or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

#### **Final Action by the Board**

**CSBA NOTE:** Education Code 48918 mandates that the Board adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

**CSBA NOTE:** 20 USC 7961 requires the district, in the consolidated application for federal funding, to provide an assurance that it will comply with the state requirement to expel, for a period not less than one year, any student who brings a firearm to school or possesses a firearm at school.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission

2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

**CSBA NOTE:** The following paragraph is optional. Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students.

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

### Written Notice to Expel

The Superintendent/**Principal** or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

### Decision to Suspend Expulsion Order

**CSBA NOTE:** Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria.

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code

48917)

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent/Principal or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

### Appeal

If a student is expelled from school, the student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

### Notification to Law Enforcement Authorities

CSBA NOTE: Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student possesses a firearm or explosive or sells or furnishes a firearm at school. However, when the student involved in such a case is a student with a disability, Education Code 49076 requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities).

When submitting the consolidated application for federal funding, the district must provide assurance that it has adopted a policy requiring referral to the criminal justice system or juvenile delinquency system of any student who brings a firearm or weapon to a school. The following section fulfills this requirement.

Prior to the suspension or expulsion of any student, the Superintendent/Principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The Superintendent/Principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the Superintendent/Principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

### Placement During Expulsion

CSBA NOTE: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student

currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the acts described in Education Code 48900(f) through (m) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, middle, junior, or senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school.

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, middle, junior, or senior high school, expelled students may be referred to the community day school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in Items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and Items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

#### **Readmission After Expulsion**

CSBA NOTE: Education Code 48916 mandates that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. The following section is consistent with the intent of AB 740 to afford protections specific to foster youth and Indian children. Items #1-2 below should be revised to reflect district practice.

Prior to the date set by the Board for the student's readmission:

1. The Superintendent/Principal or designee shall hold a conference with the student's parent/guardian, or other person holding the right to make educational decisions for the student, and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent/Principal or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and the student's parent/guardian or other person holding the right to make educational decisions for the student shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the student's parent/guardian or other person holding the right to make educational decisions for the student, or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent/Principal or designee shall notify the student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

#### **Maintenance of Records**

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

CSBA NOTE: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days.

The Superintendent/Principal or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

**Regulation 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. While many of the required rules and regulations are in BP/AR 5144.1 - Suspension and Expulsion/Due Process, the following administrative regulation addresses special procedures required when disciplining students who have been identified for special education and related services. This administrative regulation reflects the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818), and conforming state legislation. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

The U.S. Department of Education's, Office of Special Education and Rehabilitative Services (OSERS), "Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders," recommends that districts identify ways to significantly reduce the use of exclusionary discipline, and its disproportionate effect on students with disabilities. See BP 6120 - Response to Instruction and Intervention and BP/AR 6164.5 - Student Success Teams.

Neither state nor federal law requires that these procedures apply to students identified under Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). However, the U.S. Department of Education's, Office for Civil Rights, "Fact Sheet: Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973," provides that, for a student with a disability under Section 504, schools are required to conduct a manifestation determination before implementing a disciplinary removal that will significantly change the placement of the student due to discipline for (1) removal from class or school for more than 10 consecutive school days, or (2) a series of removals from class or school that together total more than 10 school days in a school year and constitute a **pattern of removal**. Districts that wish to apply all IDEA procedures to Section 504 students should modify the following regulation accordingly.

Due to the complexity of the issue, districts should **proceed carefully** when suspending or expelling students with disabilities, and consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

A student identified as an individual with a **disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482**, is subject to the **same grounds and procedures for suspension and expulsion** which apply to students without disabilities, except as **otherwise specified in this administrative regulation**.

Suspension or expulsion of a student with disabilities shall be in accordance with Board Policy 5144.1 - Suspension and Expulsion/Due Process and this administrative regulation.

When a student with disabilities exhibits behavior which impedes the student's own learning or that of others, the student's individualized education program (IEP) team shall consider positive behavioral interventions and supports, and other strategies, to address the behavior. (Education Code 56521.2; 20 USC 1414)

### **Suspension**

CSBA NOTE: Pursuant to 20 USC 1415(k)(1), 34 CFR 300.530, and a 1988 U.S. Supreme Court decision (Honig v. Doe), districts receiving funds under the IDEA may suspend a student with a disability for no more than 10 consecutive school days, as long as the removal does not constitute a change in placement pursuant to 34 CFR 300.536. Education Code 48903 specifies that a student may not be suspended for more than 20 cumulative school days in a school year.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46715, explains that whether a bus suspension or "in-school suspension" would count as a day of suspension affecting the cumulative total depends on the unique circumstances of each case, such as whether bus transportation is part of the student's individualized education program (IEP). An "in-school suspension" or "supervised suspension classroom" as authorized by Education Code 48911.1 would not count towards the 10 consecutive or 20 cumulative school day limit as long as the student is afforded the opportunity to continue to appropriately participate in the general curriculum, receive the services specified in the student's IEP, and participate with nondisabled students to the extent the student would have in the current placement. The district should be careful that such actions do not constitute a change of placement and carefully monitor such suspensions.

The Superintendent/Principal or designee may suspend a student with a disability for up to 10 consecutive school

days for a single incident of misconduct, and for up to 20 cumulative school days in a school year as long as the pattern of suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The Superintendent/**Principal** or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from the student's current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year
  - b. The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another

CSBA NOTE: Pursuant to 20 USC 1412(a)(1)(A) and 34 CFR 300.530, a "free appropriate public education" (FAPE) must be available to all students, including any student with a disability who has been suspended for more than 10 school days in the same school year. The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46716, clarifies that the district is not required to provide a student who has been suspended for more than 10 school days in a school year for disciplinary reasons **exactly the same services** in exactly the same setting as the student was receiving prior to the imposition of discipline. However, the special education and related services the student does receive must enable the student to continue to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. The Analysis of Comments, 71 Fed. Reg. 156, pg. 46717, clarifies that services need not be provided when a student is removed for 10 school days or less, as long as the district does not provide services to nondisabled students removed for the same amount of time.

If a student's removal is determined to be a change of placement as specified in Items #1-2 above, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in the student's IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to the student or the student's parent/guardian when, as a result of a suspension, the student is excluded from school bus transportation. (Education Code 48915.5)

CSBA NOTE: The following paragraph is optional.

The Superintendent/**Principal** or designee shall monitor the number of days, including portions of days, in which a student with an IEP has been suspended during the school year.

#### Interim Alternative Educational Placement Due to Dangerous Behavior

CSBA NOTE: 20 USC 1415(k) and 34 CFR 300.530 permit an interim alternative placement for 45 school days when a student with a disability, while on school grounds, while going to or coming from school, or at a school function, either (1) carries or possesses a weapon, (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury upon another person. "Serious bodily injury" is defined in 18 USC 1365 as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This alternative placement decision may be made unilaterally by the district.

The term "weapon," as used below, refers to a "dangerous weapon" as defined in 18 USC 930 and includes any device which is capable of causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by the student's IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

CSBA NOTE: For requirements of the procedural safeguards notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from the student's current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow the student to participate in the general education curriculum and to progress toward meeting the goals set out in the IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

### Manifestation Determination

CSBA NOTE: A student with a disability who is also a foster youth or Indian child is afforded additional due process safeguards. Pursuant to Education Code 48853.5 and 48915.1, as amended by AB 740 (Ch. 400, Statutes of 2022), a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, have the same rights as a parent/guardian to receive a suspension notice, expulsion notice, manifestation determination notice and invitation to the manifestation determination meeting, involuntary transfer notice, and other documents and related information, as reflected in Items #1 and 2 below. See AR 5144.1 - Suspension and Expulsion/Due Process and BP/AR 6184 - Continuation Education.

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker. (Education Code 48853.5; 20 USC 1415(k)(1)(H); 34 CFR 300.530)
2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

If the student is a foster youth or Indian child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review. (Education Code 48915.5)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC

1415(k)(1)(E); 34 CFR 300.530)

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the student's conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which the student was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** When it has been determined that the student's conduct was not a manifestation of the disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting the goals set out in the IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

#### Due Process Appeals

CSBA NOTE: As specified below, 34 CFR 300.532 provides that either the district or the parent/guardian may appeal a placement decision by filing a due process complaint pursuant to 34 CFR 300.507 and 300.508. For details regarding the due process complaint, see BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education. In addition, the district may file a request that the hearing officer order a change of placement to an interim alternative setting for up to 45 days when the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the student or others.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46723, clarifies that the burden of proof in due process hearings is on the party that is responsible for the issue going forward to the due process hearing officer, consistent with the U.S. Supreme Court's decision in *Schaffer v. Weast*. Thus, if the district has requested that a hearing officer remove a student to an interim alternative educational setting, the burden of persuasion at the hearing is on the district.

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances), 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), the parent/guardian may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

CSBA NOTE: Pursuant to 34 CFR 300.532, this due process hearing is the same as the impartial due process hearing held for other special education matters, except that the law specifies expedited timelines. For other due process hearing requirements, see BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

### **Readmission**

CSBA NOTE: There is no state or federal law that requires special procedures for readmission of expelled students with disabilities; however, districts have an ongoing obligation to make FAPE available to students with disabilities.

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

### **Decision Not to Enforce Expulsion Order**

CSBA NOTE: For district criteria applicable to all students when the Board is considering whether to suspend the enforcement of an expulsion order, see BP 5144.1 - Suspension and Expulsion/Due Process. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel when considering the suspension of an expulsion order involving a special education student.

The Board of Trustees/Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

### **Notification to Law Enforcement Authorities**

CSBA NOTE: Pursuant to 20 USC 1415(k)(6) and 34 CFR 300.535, the district is authorized to report crimes by students with disabilities to law enforcement in accordance with state law. Education Code 48902 provides procedures for these required notifications and Education Code 49076, requires any law enforcement authority to which information regarding a student with disabilities is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right. See also AR 5144.1 - Suspension and Expulsion/Due Process and BP 5131.7 - Weapons and Dangerous Instruments.

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the Superintendent/Principal/principal or designee shall require the law enforcement official to certify in writing that the student's information or records will not be disclosed to any other person without the prior written consent of the student's parent/guardian. (Education Code 49076)

### **Report to County Superintendent of Schools**

CSBA NOTE: Education Code 48203 requires the Superintendent to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. Education Code 48203 specifies that it is the duty of the County Superintendent to examine the reports and, if any case exists in which the interest of the student or welfare of the state may need further examination, bring the reports to the attention of the Board and the County Board of Education.

The Superintendent/Principal or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

### **Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC 1415(k)(5); 34 CFR 300.534)

*Knowledge* means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the

following occurred: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC 1414(a)(1)(B) or 34 CFR 300.300-300.311
3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed the student to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR 300.300-300.311, the district determined that the student was not an individual with a disability. (20 USC 1415(k)(5); 34 CFR 300.534)

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

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**Regulation 6115: Ceremonies And Observances**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

**Holidays**

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

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

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

New Year's Day - January 1

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

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

Washington Day - Third Monday in February

Memorial Day - Last Monday in May

**Juneteenth National Independence Day- June 19**

Independence Day - July 4

Labor Day - First Monday in September

Veterans Day - November 11

Thanksgiving Day - The Thursday in November designated by the President

Christmas Day - December 25

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

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

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

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

date above. (Education Code 37220)

### Commemorative Exercises

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

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

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

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

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

Susan B. Anthony Day - February 15

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

Black American Day - March 5

Conservation, Bird, and Arbor Day - March 7

Classified Employee Week - Third week in May

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

Commemorative exercises shall be integrated into the regular educational program to the extent feasible.

### Patriotic Exercises

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

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

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

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

CSBA NOTE: The following paragraph is for use by districts maintaining secondary schools. Education Code 52720

mandates that the Board adopt regulations pertaining to the conduct of patriotic exercises in secondary schools. The following paragraph should be revised to reflect district practice.

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

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

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

### Display of Flag

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

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

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

1. For 30 days from the death of the President or a former President
  2. For 10 days from the death of the **Vice President, the Chief Justice** or a retired Chief Justice, or the Speaker of the House of Representatives
  3. From the day of death until interment of **an Associate Justice** of the Supreme Court, a secretary of an executive or military department, **former Vice President, or the Governor** of a state
  4. On the day of death and the following day for a **Member of Congress**
  5. On Memorial Day, until noon only
  6. On Peace Officers Memorial Day (May 15), unless it falls on Armed Forces Day
  7. Upon a proclamation from the Governor in the event of the death of a present or former official of the state government or a member of the Armed Forces from the state who has died while serving on active duty
  8. On other occasions by order of the President and in accordance with presidential instructions or orders
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**Policy 6173: Education For Homeless Children**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: The following policy reflects the intent of the McKinney-Vento Homeless Assistance Act (42 USC 11431-11435) that each student experiencing homelessness should have equal access to the same free, appropriate public education and services as other students. 42 USC 11432 mandates that districts adopt, review, and revise policies to remove barriers to the identification, enrollment, and retention of homeless children and youth, ensure that students experiencing homelessness are not segregated or stigmatized on the basis of their status as homeless, and provide for professional development for appropriate staff, as provided in the following policy and regulation. In addition, 42 USC 11432 requires that, in reviewing and revising applicable policies, consideration be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

Education Code 48851.3, as added by AB 408 (Ch. 904, Statutes of 2022), mandates that districts establish homeless education program policies that are consistent with the provisions of Education Code 48850-48859, and using resources developed by the California Department of Education (CDE), available on its web site, and those developed by homeless education technical assistance centers. Pursuant to Education Code 48851.3, as added by AB 408, districts are required to update their homeless education program policies at least once every three years.

Education Code 48852.3, added by AB 408, requires CDE to develop and implement a plan for monitoring the compliance of districts, including school site inspections, to ensure that the state is not underestimating the number of youth experiencing homelessness.

The ~~Board of Trustees~~**Governing Board** believes that the identification of students experiencing homelessness is critical to improving the educational outcomes of such students and ensuring that students experiencing homelessness have access to the same free and appropriate public education provided to other students within the district. The district shall provide students experiencing homelessness with access to education and other services necessary for such students to meet the same challenging academic standards as other students.

When there are at least 15 students experiencing homelessness in the district or a district school, the district's local control and accountability plan (LCAP) shall include goals and specific actions to improve student achievement and other outcomes of students experiencing homelessness. (Education Code 52052, 52060, 52064)

CSBA NOTE: The following paragraph is mandated pursuant to Education Code 48851.3 and 42 USC 11432. 42 USC 11432 requires that districts adopt policy to remove barriers to enrollment and retention of students experiencing homelessness due to absences or outstanding fees or fines. See the accompanying administrative regulation for additional procedures designed to remove barriers to the identification and enrollment of students experiencing homelessness.

The Superintendent/Principal or designee shall review district policies at least once every three years and recommend updates to ensure removal of any barriers to the education of homeless students and unaccompanied youth. Any such review shall address identification, enrollment, and retention of such students, including those barriers that are due to absences or outstanding fees or fines. (Education Code 48851.3, 42 USC 11432)

CSBA NOTE: Pursuant to 42 USC 11432, districts are required to designate an appropriate staff person, who may also be a coordinator for other federal programs, as a district liaison for homeless students. See the accompanying administrative regulation for information about the designation and duties of the district liaison.

The Superintendent/Principal or designee shall designate an appropriate staff person to serve as a liaison for homeless children and youths. The district liaison for homeless students shall fulfill the duties specified in 42 USC 11432 to assist in identifying and supporting students experiencing homelessness to succeed in school, and as specified in Education Code 48851.3 related to trainings for district staff providing assistance to students experiencing homelessness.

CSBA NOTE: Education Code 48851, as amended by AB 2375 (Ch. 912, Statutes of 2022), requires the district to ensure that each school within the district identifies all students experiencing homelessness and unaccompanied youths enrolled at the school and to annually provide and administer a housing questionnaire to parents/guardians of all students and all unaccompanied youths for purposes of identifying students experiencing homelessness and unaccompanied youths. The housing questionnaire must be based on best practices developed by CDE, include an explanation of the rights and protections a student has as a homeless child or youth or as an unaccompanied youth, and be made available in paper form. A sample housing questionnaire is available on CDE's web site.

Education Code 48851, as amended by AB 2375, requires districts to collect the completed housing questionnaires described above, and annually report to CDE the number of students experiencing homelessness and unaccompanied youths enrolled in the district.

The Superintendent/Principal or designee shall ensure that each district school identifies all students experiencing homelessness and unaccompanied youths enrolled at the school. (Education Code 48851)

To ensure easy identification of students experiencing homelessness, the Superintendent/Principal or designee shall annually provide and administer a housing questionnaire developed by the California Department of Education (CDE) to all parents/guardians of students and all unaccompanied youths. (Education Code 48851)

If the primary language of a student's parent/guardian or an unaccompanied youth is not English, either the housing questionnaire shall be made available in the primary language of the student's parent/guardian or the unaccompanied youth pursuant to Education Code 48985, or an appropriate translation of the housing questionnaire shall be provided upon request of a student's parent/guardian or an unaccompanied youth. (Education Code 48851)

The Superintendent/Principal or designee shall report to CDE the number of students experiencing homelessness, including unaccompanied youths, enrolled in the district as identified from the housing questionnaire described above. (Education Code 48851)

CSBA NOTE: Education Code 48852.6 requires districts to create a web page or post on its web site (1) a list of district liaisons and contact information for such liaison(s) and (2) specific information on homelessness, including, but not limited to, information regarding the educational rights and resources available to persons experiencing homelessness. Additionally, Education Code 48852.6 requires a district school, if it has a web site, to post the contact information for the district liaison, as well as the name and contact information of any employee or person under contract the school may have who assists the district liaison in completing the liaison's duties. See the accompanying administrative regulation for more information regarding posting requirements.

In addition, the Superintendent/Principal or designee shall ensure that the district liaison's contact information and other information on homelessness, including, but not limited to, information regarding the educational rights and resources available to persons experiencing homelessness, are posted on the district and school web sites as specified in the accompanying administrative regulation. (Education Code 48852.6)

CSBA NOTE: Pursuant to Education Code 48850 and 42 USC 11432, placement determinations for students experiencing homelessness must be made according to the student's "best interest," as defined by law and in the accompanying administrative regulation.

The Superintendent/Principal or designee shall ensure that placement decisions for students experiencing homelessness are based on the student's best interest as defined in law and administrative regulation.

Each student experiencing homelessness shall be provided services that are comparable to services offered to other students in the school, including, but not limited to, transportation, educational programs for which the student meets the eligibility criteria (such as federal Title I services or similar state or local programs, programs for students with disabilities, and educational programs for English learners), career and technical education programs, programs for gifted and talented students, and school nutrition programs. (Education Code 48850; 42 USC 11432)

CSBA NOTE: The following paragraph is mandated by 42 USC 11432. Although segregation of students experiencing homelessness into a separate school or program is prohibited, separate schools that were in operation before 2001 may continue to operate under specified conditions. Districts that maintain such a school may revise the following paragraph to reflect district practice.

Students experiencing homelessness shall not be segregated into a separate school or program based on their status as homeless and shall not be stigmatized in any way. However, the Superintendent/Principal or designee may separate students experiencing homelessness on school grounds as necessary for short periods of time for health and safety emergencies or to provide temporary, special, and supplementary services to meet their unique needs. (42 USC 11432, 11433)

The Superintendent or designee shall ensure that information and/or materials for students experiencing homelessness are provided in a manner and form understandable to the student's parents/guardians and to unaccompanied youths.

CSBA NOTE: Although students' addresses generally may be designated as "directory information" that is not

harmful if disclosed, 42 USC 11432 provides that information about the living situation of a student experiencing homelessness must instead be provided the protections afforded to other student records under the Family Educational Rights and Privacy Act. For further information about the disclosure of records of students experiencing homelessness, see the U.S. Department of Education's (USDOE), "Education for Homeless Children and Youths Program Non-Regulatory Guidance."

Information about the living situation of a student experiencing homelessness shall be considered part of a student's educational record, subject to the Family Educational Rights and Privacy Act, shall not be deemed to be directory information as defined in 20 USC 1232g, and shall not be released without written consent. (42 USC 11432)

CSBA NOTE: Pursuant to 42 USC 11432, districts receiving assistance through the McKinney-Vento Homeless Assistance Act are required to coordinate services as provided below. Other districts may delete or revise the following paragraph to reflect district practice.

The Superintendent/Principal or designee shall coordinate with other agencies and entities to ensure that students experiencing homelessness are promptly identified, ensure that students experiencing homelessness have access to and are in reasonable proximity to available education and related support services, and raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness. Toward these ends, the Superintendent or designee shall collaborate with local social services agencies, other agencies or entities providing services to students experiencing homelessness, and, if applicable, transitional housing facilities. In addition, the Superintendent/Principal or designee shall coordinate transportation, transfer of school records, and other interdistrict activities with other local educational agencies. As necessary, the Superintendent or designee shall coordinate, within the district and with other involved local educational agencies, services for students experiencing homelessness and services for students with disabilities. (42 USC 11432)

CSBA NOTE: 42 USC 11432 mandates that districts adopt policies and practices to ensure participation by district liaisons and other appropriate staff in professional development and other technical assistance activities, as determined appropriate by the federal Office of the Coordinator.

Education Code 48852.5 requires CDE to provide specified informational and training materials to district liaisons, including informational materials on the educational rights of students experiencing homelessness and resources available to assist students experiencing homelessness. Education Code 48852.5 also requires CDE to develop and implement a system to verify that districts are providing the required training to school personnel providing services to students experiencing homelessness at least annually.

Pursuant to Education Code 48851.3, as added by AB 408, the liaison for homeless students is required to offer annual training to district employees providing services to students experiencing homelessness and to inform such employees of the availability of training and the services the liaison provides. While Education Code 48851.3 requires annual training for employees who work with students experiencing homelessness, the liaison is encouraged to offer training to all district employees.

The following paragraph reflects the training requirement of Education Code 48851.3 and 48852.5, and USDOE's "Education for Homeless Children and Youths Program Non-Regulatory Guidance," regarding the content of the professional development.

At least annually, the district liaison and other appropriate staff shall participate in professional development and other technical assistance activities to assist them in identifying and meeting the needs of students experiencing homelessness. Such professional development and technical assistance shall include, but are not limited to, training on the district's homeless education program policies, definitions of terms related to homelessness, recognition of signs that students are experiencing or are at risk of experiencing homelessness, the steps that should be taken once a potentially homeless student is identified, and how to connect students experiencing homelessness with appropriate housing and service providers. (Education Code 48851.3, 48852.5; 42 USC 11432)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Pursuant to Education Code 52064.5, the State Board of Education has adopted evaluation rubrics for use by districts in evaluating their strengths, weaknesses, and areas that require improvement.

In addition, pursuant to 20 USC 6311 annual district report cards for districts receiving Title I funds are required to include disaggregated student achievement data and graduation rates of homeless students.

At least annually, the Superintendent/Principal or designee shall report to the Board on the identification of and outcomes for students experiencing homelessness, which may include, but are not limited to, the housing questionnaire responses, school attendance, student achievement test results, promotion and retention rates by

grade level, graduation rates, suspension/expulsion rates, and other outcomes related to any goals and specific actions identified in the LCAP. Based on the evaluation data, the district shall revise its strategies as needed to more effectively identify and support the education of students experiencing homelessness.

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532 (Ch. 918, Statutes of 2022), districts are required to annually report to CDE regarding the number of students experiencing homelessness who, for the prior school year, graduated with an exemption from the district-established graduation requirements that are in addition to statewide coursework requirements, as specified below.

Annually, the Superintendent or designee shall report to CDE, in accordance with Education Code 51225.1, the number of students experiencing homelessness graduating from the fourth or fifth year of high school who, for the prior school year, graduated with an exemption from district-established graduation requirements that are in addition to statewide coursework requirements.

**Regulation 6173: Education For Homeless Children**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

CSBA NOTE: The following administrative regulation is mandated pursuant to Education Code 48851.3, as added by AB 408 (Ch. 914, Statutes of 2022) and 42 USC 11432, which require districts to establish homeless education program policies. Pursuant to Education Code 48851.3 districts are required to update these policies at least once every three years. See section on "Transportation" below for additional requirements.

**Definitions**

CSBA NOTE: The federal McKinney-Vento Homeless Assistance Act (42 USC 11434a) and Education Code 48859 define "homeless children and youths" as provided below. Foster youth who are living in emergency or transitional shelters are within the definition of homeless students but youth who are awaiting foster care placement are not. See BP/AR 6173.1 - Education for Foster Youth for state law regarding foster children.

*Homeless students or students experiencing homelessness* means students who lack a fixed, regular, and adequate nighttime residence and includes: (Education Code 48859; 42 USC 11434a)

1. Students who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals
2. Students who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as regular sleeping accommodations for human beings
3. Students who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
4. Migratory children who qualify as homeless because they are living in conditions described in items #1-3 above

*Unaccompanied youth* includes a homeless child or youth not in the physical custody of a parent or guardian. (Education Code 48859; 42 USC 11434a)

CSBA NOTE: The following definition of "school of origin" generally reflects Education Code 48852.7, which exceeds the definition in 42 USC 11432 and is consistent with the state definition of "school of origin" that applies to foster youth. However, 42 USC 11432 includes preschools in the definition as provided below.

*School of origin* means the school that the student experiencing homelessness attended when permanently housed or the school in which the student was last enrolled, including a preschool. If the school the student experiencing homelessness attended when permanently housed is different from the school in which the student was last enrolled, or if there is some other school that the student attended within the preceding 15 months and with which the student is connected, the district liaison for homeless students, in consultation with and with the agreement of the student experiencing homelessness and the person holding the right to make educational decisions for the student, shall determine which school is, in the best interests of the student experiencing homelessness, deemed the school of origin. (Education Code 48852.7; 42 USC 11432)

CSBA NOTE: Education Code 48850 expresses legislative intent that the "best interest" of a student experiencing homelessness or foster youth includes educational stability as well as placement in the least restrictive educational program, as provided below. Education Code 48853 further provides that the placement of a foster youth must consider the student's access to academic resources, services, and extracurricular and enrichment activities. For consistency with the definition of "best interest" applicable to foster youth see AR 6173.1 - Education for Foster Youth. The following definition also reflects Education Code 48853.

*Best interest* means that, in making educational and school placement decisions for a student experiencing homelessness, consideration is given to, among other factors, educational stability, the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress, and the student's access to academic resources, services, and extracurricular and enrichment activities that are available to all district students. (Education Code 48850, 48853; 42 USC 11432)

**District Liaison**

CSBA NOTE: Pursuant to 42 USC 11432, districts are required to designate an appropriate staff person, who may

also be a coordinator for other federal programs, as a district liaison for homeless students. The district should fill in the blanks below with the title or position, address, email address, and phone number of the district liaison.

The Superintendent/Principal designates the following staff person as the district liaison for homeless students: (42 USC 11432)

Superintendent/Principal \_\_\_\_\_  
(title or position)  
Richmond Elementary School District  
700-585 Richmond Road East  
Susanville, CA 96130 \_\_\_\_\_  
(address)  
jdemers@lcoe.org \_\_\_\_\_  
(email address)  
(530) 257-2338 \_\_\_\_\_  
(phone number)

CSBA NOTE: The duties of the district liaison for homeless students are listed in Education Code 48851.3, as added by AB 408, and 42 USC 11432 and are specified below. Also see the U.S. Department of Education's (USDOE), "Education for Homeless Children and Youths Program Non-Regulatory Guidance," and the "Homeless Liaison Toolkit," developed by the National Center for Homeless Education.

The district's liaison for homeless students shall: (Education Code 48851.3, 48851.5, 48852.5; 42 USC 11432)

1. Ensure that students experiencing homelessness are identified by school personnel through outreach and coordination activities with other entities and agencies
2. Ensure that students experiencing homelessness are enrolled in, and have a full and equal opportunity to succeed in, district schools
3. Ensure that families and students experiencing homelessness have access to and receive educational services for which they are eligible, including services through Head Start and Early Head Start programs, early intervention services under Part C of the federal Individuals with Disabilities Education Act, and other preschool programs administered by the district
4. Ensure that families and students experiencing homelessness receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services
5. Inform parents/guardians of the educational and related opportunities available to their children and ensure that they are provided with meaningful opportunities to participate in the education of their children
6. Disseminate public notice of the educational rights of students experiencing homelessness in locations frequented by parents/guardians of students experiencing homelessness and by unaccompanied youth, including schools, shelters, public libraries, and hunger relief agencies (soup kitchens). The rights shall be presented in a manner and form understandable to the parents/guardians of homeless students and unaccompanied youth.
7. Mediate enrollment disputes in accordance with law and the section "Resolving Enrollment Disputes" below
8. Fully inform parents/guardians of students experiencing homelessness and unaccompanied youth of all transportation services, including transportation to the school of origin, and assist them in accessing transportation to the school of choice

CSBA NOTE: Pursuant to Education Code 48852.5, the California Department of Education (CDE) is required to provide training materials to district liaisons for homeless students for the purpose of providing required professional development and support to school personnel who provide services to homeless students.

Pursuant to Education Code 48851.3, as added by AB 408, the district's liaison for homeless students is required to offer annual training to district employees who provide services to students experiencing homelessness and inform such employees of the availability of training and the services the liaison provides. While Education Code 48851.3 requires annual training for employees who work with students experiencing homelessness, the district's liaison for homeless students is encouraged to offer training to all district

employees.

The examples of school personnel listed below reflect CDE's 2022-23 Federal Program Monitoring Instrument.

9. Offer annual training related to the district's homeless education program policies to school personnel who provide services to students experiencing homelessness, including principals and other school leaders, attendance officers, teachers, enrollment personnel, and specialized instructional support personnel, to ensure that such employees are informed of available training, professional development, and other support, and the services provided by the district liaison for homeless students
10. Ensure that unaccompanied youth are enrolled in school, have opportunities to meet the same challenging state academic standards established for other students, and are informed of their status as independent students under 20 USC 1087vv and that they may receive assistance from the district liaison to receive verification of their independent student status for purposes of applying for federal student aid pursuant to 20 USC 1090
11. Coordinate and collaborate with state coordinators and community and school personnel responsible for the provision of education and related services to students experiencing homelessness, including the collection and provision of comprehensive data to the state coordinator as required by law

CSBA NOTE: Pursuant to Education Code 48918.1, the district liaison must be notified at least 10 calendar days before the date of the expulsion hearing for a student experiencing homelessness, when the student's alleged violation does not require a mandatory recommendation for expulsion, and may be notified for mandatory expulsions; see AR 5144.1 - Suspension and Expulsion/Due Process. When so notified, the district liaison is expected to assist the student and, as necessary, advocate on the student's behalf.

Furthermore, pursuant to Education Code 48915.5, if the student experiencing homelessness has also been identified as an individual with a disability and the district has proposed a change of placement due to an act for which the decision to recommend expulsion is discretionary, the district liaison must be invited to participate in the individualized education program (IEP) team meeting that makes a manifestation determination pursuant to the Individuals with Disabilities Education Act (20 USC 1415(k)).

In addition, when notified pursuant to Education Code 48918.1, the district liaison shall assist, facilitate, or represent a student experiencing homelessness who is undergoing a disciplinary proceeding that could result in the student's expulsion. When notified pursuant to Education Code 48915.5, the district liaison shall participate in an individualized education program (IEP) team meeting to make a manifestation determination regarding the behavior of a student with a disability.

CSBA NOTE: 42 USC 11432 requires CDE to publish a list of district liaisons on its web site. CDE collects the name and contact information of district liaisons through the consolidated application process, along with information about district compliance with federal program requirements.

The Superintendent/Principal or designee shall inform students experiencing homelessness, their parents/guardians, school personnel, service providers, and advocates working with homeless families of the duties of the district's liaison. The Superintendent/Principal or designee shall also provide the name and contact information of the district's liaison to the California Department of Education (CDE) for publishing on CDE's web site. (42 USC 11432)

## Enrollment

The district shall make placement decisions for students experiencing homelessness based on the student's best interest. (Education Code 48850; 42 USC 11432)

In determining a student's best interest, a student experiencing homelessness shall, to the extent feasible, be placed in the school of origin, unless the student's parent/guardian or the unaccompanied youth requests otherwise. (Education Code 48852.7; 42 USC 11432)

CSBA NOTE: Education Code 48850 and 42 USC 11432 specify factors that must be considered in determining a student's best interest, as provided below.

When determining the best interest of any student experiencing homelessness, the district shall give priority to the request of the student's parent/guardian, or in the case of an unaccompanied youth, the request of the student. The student's educational stability and opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress and other student-centered factors related to the student's best interest, including the

impact of mobility on the student's achievement, education, health, and safety, shall also be considered. (Education Code 48850; 42 USC 11432)

CSBA NOTE: The following optional paragraph presents examples of factors that may be considered in making placement decisions based on a student's "best interest," and may be revised to reflect district practice.

Such factors may include, but are not limited to, the age of the student, the distance of the commute and the impact it may have on the student's education, personal safety issues, the student's need for special instruction, the length of anticipated stay in the temporary shelter or other temporary location, likely area of future housing, school placement of siblings, and the time remaining in the school year.

However, placement decisions shall not be based on whether a student experiencing homelessness lives with the student's homeless parent/guardian or has been temporarily placed elsewhere. (42 USC 11432)

In the case of an unaccompanied youth, the district liaison shall assist in placement or enrollment decisions, give priority to the views of the student, and provide notice to the student of the right to appeal. (42 USC 11432)

CSBA NOTE: Education Code 48852.7 and 42 USC 11432 require schools to immediately enroll students experiencing homelessness as specified below. In USDOE's, "Non-Regulatory Guidance Education for Homeless Children and Youths Program," USDOE recommends that the district take steps to facilitate immediate enrollment such as accepting school records directly from families, establishing school-based immunization clinics, and training staff on the legal requirements for immediate enrollment. See AR 5111.1 - District Residency.

Once a placement decision has been made, the Superintendent/Principal/principal or designee shall immediately enroll the student in the school of choice. The student shall be enrolled even if the student: (Education Code 48850, 48852.7; 42 USC 11432)

1. Has outstanding fees, fines, textbooks, or other items or monies due to the school last attended
2. Does not have clothing normally required by the school, such as school uniforms
3. Is unable to produce records normally required for enrollment, such as previous academic records, proof of residency, and records of immunization and other required health records
4. Has missed application or enrollment deadlines during any period of homelessness

The Superintendent/Principal/principal or designee shall immediately contact the school last attended by the student to obtain the relevant records. If the student needs to obtain immunizations or does not possess immunization or other required health records, the principal or designee shall immediately refer the parent/guardian to the district liaison for homeless students. The district liaison shall assist the parent/guardian, or the student if the student is an unaccompanied youth, in obtaining the necessary immunizations, screenings, or records for the student. (42 USC 11432)

If the student is placed at a school other than the school of origin or the school requested by the student's parent/guardian or the student, if an unaccompanied youth, the Superintendent/Principal or designee shall provide the parent/guardian or the unaccompanied youth with a written explanation of the reasons for the decision, including why placement in the student's school of origin or requested school is not in the student's best interest, along with a statement regarding the right to appeal the placement decision. The written explanation shall be in a manner and form understandable to such parent/guardian or unaccompanied youth. (42 USC 11432)

At the point of any change or subsequent change in the residence of a student experiencing homelessness, the student may continue attending the student's school of origin for the duration of the homelessness. (Education Code 48852.7; 42 USC 11432)

To ensure that the student experiencing homelessness has the benefit of matriculating with the student's peers in accordance with the established feeder patterns, the following shall apply: (Education Code 48852.7; 42 USC 11432)

1. If the student is transitioning between grade levels, the student shall be allowed to continue in the same attendance area
2. If the student is transitioning to a middle school or high school, and the school designated for matriculation is in

another school district, the student shall be allowed to continue to the school designated for matriculation in that district

CSBA NOTE: Education Code 48852.7 and 42 USC 11432 require that students who become permanently housed during the school year be allowed to remain in the school of origin for the remainder of the school year. Additionally, Education Code 48852.7 allows students to remain in the school of origin, or matriculate to a feeder school, even if the student is no longer experiencing homelessness. The district may revise the following list to reflect the grade levels and feeder school patterns in the district.

If the student's housing status changes before the end of the school year so that the student is no longer experiencing homelessness, the student shall be allowed to stay in the school of origin: (Education Code 48852.7)

1. Through the duration of the school year if the student is in grades K-8
2. Through graduation if the student is in high school

### Resolving Enrollment Disputes

CSBA NOTE: In the event that a dispute arises over the district's decision related to student eligibility, school selection, or enrollment, the district must comply with the requirements of 42 USC 11432 and the dispute resolution process established by CDE. CDE's, "Homeless Education Dispute Resolution Process," available on CDE's web site, provides such guidance. CDE's guidance does not specify a hearing process or timelines for the district-level dispute resolution process. Thus, the district may revise the following section to reflect district practice, provided that the process is consistent with law.

If a dispute arises over student eligibility, school selection, or enrollment in a particular school, the matter shall be referred to the district liaison, who shall carry out the dispute resolution process as expeditiously as possible. (42 USC 11432)

The parent/guardian or unaccompanied youth shall be provided with a written explanation of any decisions related to eligibility, school selection, or enrollment and of the right of the parent/guardian or unaccompanied youth to appeal such decisions. (42 USC 11432)

CSBA NOTE: The following optional list should be modified to reflect district practice. In USDOE's, "Education for Homeless Children and Youths Program Non-Regulatory Guidance," USDOE recommends that the written explanation contain the elements specified below. See the accompanying exhibits for a sample explanation and appeal form.

The written explanation shall include:

1. A description of the action proposed or refused by the district
2. An explanation of why the action is proposed or refused
3. A description of any other options the district considered and the reasons that any other options were rejected
4. A description of any other factors relevant to the district's decision and information related to the eligibility or best interest determination including the facts, witnesses, and evidence relied upon and their sources
5. Appropriate timelines to ensure any relevant deadlines are not missed
6. Contact information for the district liaison and state coordinator, and a brief description of those roles

The written explanation shall be complete, as brief as possible, simply stated, and provided in language that the parent/guardian or student can understand.

CSBA NOTE: The following optional paragraph is recommended in USDOE's "Education for Homeless Children and Youths Program Non-Regulatory Guidance."

The district liaison may use an informal process as an alternative to formal dispute resolution procedures, provided that the parents/guardians or unaccompanied youth have access to the more formal process if informal resolution is not successful in resolving the matter.

CSBA NOTE: The following optional paragraph is recommended in CDE's, "Homeless Education Dispute Resolution

Process," guidance to districts. CDE recommends that if the parent/guardian or unaccompanied youth is an English Learner, the native language and/or an interpreter be used, and/or if additional supports are needed because of a disability, such services be made available without charge.

In working with a student's parents/guardians or unaccompanied youth to resolve an enrollment dispute, the district liaison shall:

1. Inform the student's parents/guardians or unaccompanied youth that written and/or oral documentation to support their position may be provided
2. Inform the student's parents/guardians or unaccompanied youth that they may seek the assistance of social services, advocates, and/or service providers in having the dispute resolved
3. Provide a simple form that they may use and turn in to the school to initiate the dispute resolution process
4. Provide a copy of the dispute form they submit for their records
5. Provide the outcome of the dispute for their records

When a student's parent/guardian or an unaccompanied youth involved in the enrollment dispute is an English learner, Items #1-5 shall be provided either in the native language of the parent/guardian or unaccompanied youth or through an interpreter. Any additional support needed because of a disability of that parent/guardian or unaccompanied youth shall be made available without a charge.

If a parent/guardian or unaccompanied youth disagrees with the district liaison's enrollment decision, the decision may be appealed to the Superintendent. The Superintendent shall make a determination within five working days.

**CSBA NOTE:** In CDE's, "Homeless Education Dispute Resolution Process," CDE describes the process for appealing a district's enrollment decision to the county office of education (COE) and CDE. Upon receipt of materials describing the dispute from the district, the COE liaison will determine the school selection or enrollment decision within five working days. If the dispute remains unresolved or is appealed, the COE liaison will forward the documentation to CDE's Homeless Education Program. CDE will notify all parties of the final determination of eligibility, school selection, or enrollment within five working days of receipt of the appeal.

If the parent/guardian chooses to appeal the district's placement decision, the district liaison shall forward all written documentation and related paperwork to the liaison for homeless students at the county office of education.

**CSBA NOTE:** 42 USC 11432 provides that, during any dispute over a student's enrollment, the student must be allowed to be enrolled in the school in which enrollment is sought during the period of all appeals. 42 USC 11434a defines "enrollment" as including attendance in classes and full participation in school activities.

Pending final resolution of the dispute, including all available appeals, the student shall be immediately enrolled in the school in which enrollment is sought and shall be allowed to attend classes and participate fully in school activities. (42 USC 11432, 11434a)

## Transportation

**CSBA NOTE:** 42 USC 11432 mandates that districts adopt policies and practices to ensure that transportation is provided to students experiencing homelessness, at the request of the student's parent/guardian or of the district liaison in the case of an unaccompanied youth, to and from the school of origin as specified below.

In USDOE's, "Education for Homeless Children and Youths Program Non-Regulatory Guidance," USDOE states that the law imposes an affirmative obligation to transport students experiencing homelessness, even if transportation is not provided to other students. The Guidance clarifies that, because the State of California receives funds under McKinney-Vento, all districts in California are subject to this requirement.

The district shall provide transportation for a student experiencing homelessness to and from the student's school of origin when the student is residing within the district and the parent/guardian, or the district liaison in the case of an unaccompanied youth, requests that such transportation be provided. If the student moves outside of district boundaries, but continues to attend the student's school of origin within this district, the Superintendent or designee shall consult with the superintendent of the district in which the student is now residing to agree upon a method to apportion the responsibility and costs of the transportation. (42 USC 11432)

**CSBA NOTE:** Pursuant to Education Code 39807.5, as amended by AB 181 (Ch. 52, Statutes of 2022), the district is

required to waive transportation fees for an unduplicated student, as defined in Education Code 42238.02, which includes a student who is eligible for free or reduced-price meals, who is classified as an English learner, or who is a foster youth. Since it is likely that most students experiencing homelessness would be eligible to receive free meals, and would therefore qualify as an unduplicated student, such students would most likely be exempt from transportation costs. See BP 3540 Transportation and BP/AR 3250 - Transportation Fees.

Any fees that the district charges for home-to-school transportation and other transportation as expressly provided by law shall be waived for students experiencing homelessness. (Education Code 39807.5)

CSBA NOTE: Education Code 48852.7 requires that the district provide transportation to a formerly homeless student with an IEP only if transportation is a necessary related service. Education Code 48852.7 does not supersede or exceed other laws governing special education services for eligible students experiencing homelessness.

The following paragraph may be revised if the district chooses to provide transportation to other formerly homeless students attending their school of origin.

The district shall not be obligated to provide transportation to students who continue attending their school of origin after they secure permanent housing, unless the formerly homeless student has an IEP that includes transportation as a necessary related service for the student. (Education Code 48852.7)

### Transfer of Coursework and Credits

CSBA NOTE: The following section is for use by districts maintaining high schools. Education Code 51225.2, as amended by SB 532 (Ch. 918, Statutes of 2022), addresses the transferability of coursework and credits completed by a student experiencing homelessness, as provided below.

Education Code 51225.2, as amended by SB 532, requires the transferring school to include in the student's educational record a determination of days of enrollment and/or seat time and an official transcript with full and partial credits earned, or any measure of full or partial coursework being satisfactorily completed.

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

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

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

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

The district shall transfer the credits and grades from the transferring school's transcript onto an official district transcript in the same manner as described in Item #2, above. (Education Code 51225.2) If the Principal or designee has knowledge that the transcript from the transferring school may not include certain credits or grades, the Principal or designee shall contact the prior school within two business days to request that the full or partial credits be issued, which shall then be issued and provided by the prior school within two business days of the request. (Education Code 51225.2) The district shall accept and issue full credit for any coursework that the student has satisfactorily completed while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school. (Education Code 51225.2)

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

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

If the entire course was not completed at the previous school, the student shall be issued partial credit for the coursework completed and shall be required to take the uncompleted portion of the course. However, the district may require the student to retake the portion of the course completed if, in consultation with the holder of educational rights for the student, the district finds that the student is reasonably able to complete the requirements

in time to graduate from high school. Whenever partial credit is issued to a student in any particular course, the student shall be enrolled in the same or equivalent course, if applicable, so that the student may continue and complete the entire course. (Education Code 51225.2)

CSBA NOTE: Although Education Code 51225.2 requires districts to award partial credits to students who transfer from school to school, there is no uniform system for calculating and awarding partial credits. A recommendation for how to award partial credit is available in the California Child Welfare Council's, "Partial Credit Model Policy and Practice Recommendations," and should be revised to reflect district practice.

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

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

### Applicability of Graduation Requirements

CSBA NOTE: The following section is for use by districts maintaining high schools. Also see BP 6146.1 - High School Graduation Requirements.

To obtain a high school diploma, a student experiencing homelessness shall complete all courses required by Education Code 51225.3 and fulfill any additional graduation requirements established by the Governing Board. However, when a student experiencing homelessness who has completed the second year of high school transfers into the district from another school district or transfers between high schools within the district, the student shall be exempted from all district-established coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of the fourth year of high school. Within 30 calendar days of the student's transfer, the Superintendent or designee shall notify the student, the person holding the right to make educational decisions for the student, and the district liaison for homeless students of the availability of the exemption and whether the student qualifies. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the student is no longer homeless. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, to determine whether a student with significant gaps in school attendance is in the third or fourth year of high school, the student's age as compared to the average age of students in the third or fourth year of high school may be used.

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

CSBA NOTE: Education Code 51225.1, as amended by SB 532, requires the district to exempt a student who qualifies for an exemption from district-established graduation requirements, under the circumstances described below.

If a student experiencing homelessness was not properly notified of an exemption, declined the exemption, or was not previously exempted, the student or the person holding the right to make educational decisions for the student may request the exemption and the Superintendent/Principal or designee shall exempt the student within 30 days of the request. A student may request the exemption even if the student is no longer a student experiencing homelessness. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, the district is required to reevaluate a student's eligibility for an exemption from district-established graduation requirements, as described below.

When the Superintendent or designee determines that a student who transferred into a district school is reasonably able to complete district-established graduation requirements by the end of the student's fourth year of high school, the student shall not be exempted from those requirements. Within 30 calendar days of the following academic year, the student shall be reevaluated based on the student's course completion status at the time, to determine if the student continues to be reasonably able to complete the district-established graduation requirements in time to graduate by the end of the student's fourth year of high school. Written notice as to whether the student then qualifies for exemption shall be provided to the student, the person holding the right to make educational decisions

for the student, and if applicable, to the student's social worker or probation officer. (Education Code 51225.1) If, upon reevaluation, it is determined that the student experiencing homelessness is not reasonably able to complete the district-established graduation requirements in time to graduate from high school by the end of the student's fourth year of high school, the Superintendent or designee shall provide the student with the option to receive an exemption from district-established graduation requirements or stay in school for a fifth year to complete the district-established graduation requirements upon agreement with the student, or if under 18 years of age, the person holding the right to make educational decisions for the student, and provide notifications in accordance with Education Code 51225.1. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, the district is required to consult with a student experiencing homelessness who is granted an exemption from district-established graduation requirements and the person holding the right to make educational decisions for the student, as described below.

When a student experiencing homelessness is exempted from district-established graduation requirements, the Superintendent or designee shall consult with the student and the person holding the right to make educational decisions for the student about the following: (Education Code 51225.1)

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

The district shall not require or request a student experiencing homelessness to transfer schools in order to qualify for an exemption and shall not grant any request made by a student experiencing homelessness, the person holding the right to make educational decisions for the student, or the district liaison on behalf of the student, for a transfer solely to qualify for an exemption. (Education Code 51225.1)

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

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

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

If a student experiencing homelessness is exempted from district-established graduation requirements, the exemption shall not be revoked. Additionally, the exemption shall continue to apply after the student is no longer experiencing homelessness or if the student transfers to another school, including a charter school, or school district. (Education Code 51225.1)

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

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

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, if the district determines that a student who is eligible for the exemption from district-established graduation requirements is reasonably able to complete those requirements in time to graduate from high school by the end of the student's fifth year, the district is required to provide the following.

Upon making a finding that a student experiencing homelessness is reasonably able to complete district-established

graduation requirements within the fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

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

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, until January 1, 2028, when a student experiencing homelessness who has completed the second year of high school transfers into the district from another school district or transfers between high schools within the district, and is not reasonably able to complete the district-established graduation requirements, but is reasonably able to complete the statewide coursework requirements, within the student's fifth year of high school, the district is required to exempt the student from the district-established graduation requirements and provide the student with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, consultation with the student and the person holding the right to make educational decisions for the student is required, as provided below:

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

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

#### Eligibility for Extracurricular Activities

CSBA NOTE: The following paragraph is required pursuant to Education Code 48850. See BP 6145 - Extracurricular and Cocurricular Activities for additional eligibility requirements.

A student experiencing homelessness who enrolls in any district school shall have access to extracurricular and enrichment activities that are available to all students in the school, including but not limited to, interscholastic sports administered by the California Interscholastic Federation. (Education Code 48850)

#### Notification, Complaints, and Posting Requirements

Information regarding the educational rights of students experiencing homelessness, as specified in Education Code 51225.1 and 51225.2, shall be included in the annual uniform complaint procedures notification distributed to

students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 51225.1, 51225.2)

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

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

CSBA NOTE: Education Code 48852.6 requires the district and each district school that maintains a web site to post on the district and school web sites information related to the education of students experiencing homelessness, as specified in the following paragraphs.

The Superintendent/Principal or designee shall ensure that a list of the district's liaison(s) and the contact information for such liaison(s), as well as specific information on homelessness, including, but not limited to, information regarding the educational rights and resources available to students experiencing homelessness, are posted on the district's web site. (Education Code 48852.6)

Each district school that has a web site shall also post the contact information for the district liaison and the name and contact information of any employee or other person under contract with the school who assists the district liaison in completing the liaison's duties pursuant to 42 USC 11432. (Education Code 48852.6)

**Policy 6173.1: Education For Foster Youth**

Status: DRAFT

Original Adopted Date: 12/09/2014 | Last Revised Date: 12/15/2022

CSBA NOTE: Education Code 42238.02 and 42238.03 provide supplemental and concentration grants within the local control funding formula based on the number and concentration of unduplicated counts of students who are foster youth, who are English learners, or who are eligible for free or reduced-price meals; see BP/AR 3100 - Budget. In addition, Education Code 52060-52077 require districts to develop a local control and accountability plan (LCAP) which must be aligned to specific state priorities and any additional local priorities, and which must contain annual goals for all students and for each "numerically significant" student subgroup and the specific actions to be taken to achieve each goal; see BP/AR 0460 - Local Control and Accountability Plan.

Education Code 48850-48859 (the AB 490 Educational Rights and Stability Act of 2003) create obligations for districts regarding the education of foster youth, including the right of foster youth to continue attending their school of origin and the requirement to ensure that foster youth have access to the same academic resources, services, and extracurricular and enrichment activities that are available to all students. See the accompanying administrative regulation.

While the requirements of the federal McKinney-Vento Homeless Assistance Act (42 USC 11431-11435) may apply to foster youth in certain situations, such as when they are living in emergency or transitional shelters (see BP/AR 6173 - Education for Homeless Children), Education Code 48850-48859 extend services to youth at any time when in foster care. The following policy may be revised to reflect district practice.

The ~~Board of Trustees~~**Governing Board** recognizes that foster youth may face significant barriers to achieving academic success due to their family circumstances, disruption to their educational program, and their emotional, social, and other health needs that may be addressed with the provision of a safe, positive learning environment that is free from discrimination and harassment and that promotes students' self-esteem and academic achievement.

The Superintendent/**Principal** or designee shall provide foster youth with full access to the district's educational program and implement strategies necessary for the improvement of the academic achievement of foster youth as identified in the district's local control and accountability plan (LCAP). The Superintendent/**Principal** or designee shall also develop strategies to build a foster youth's feeling of connectedness with school, including, but not limited to, strategies that promote positive discipline and conflict resolution, the development of resiliency and interpersonal skills, and the involvement of foster parents, group home administrators, and/or other caretakers in school programs and activities.

CSBA NOTE: Pursuant to Education Code 48850, placement determinations for foster youth are required to be made in accordance with the student's "best interest." In addition, Education Code 48853.5 requires each district to designate a staff person as a foster care liaison to help ensure proper school placement, enrollment, and transfer. See the accompanying administrative regulation.

The Superintendent/**Principal** or designee shall ensure that placement decisions for foster youth are based on the students' best interests as defined in law and as specified in the accompanying administrative regulation. To that end, the Superintendent/**Principal** or designee shall designate a staff person as the district liaison for foster youth to help facilitate the enrollment, placement, and transfer of foster youth.

The Superintendent/**Principal** or designee and district liaison shall ensure that all appropriate staff, including, but not limited to, each principal, school registrar, and attendance clerk, receive training on the enrollment, placement, and transfer of foster youth and other related rights.

CSBA NOTE: Education Code 48853.5 encourages districts to collaborate with other agencies to provide services to foster youth. The following optional paragraph should be modified to reflect district practice.

To address the needs of foster youth and help ensure the maximum utilization of available funds, the Superintendent/**Principal** or designee shall collaborate with local agencies and officials including, but not limited to, the county placing agency, social services, probation officers, and juvenile court officers. The Superintendent/**Principal** or designee shall explore the feasibility of entering into agreements with these groups to coordinate services and protect the rights of foster youth.

CSBA NOTE: Pursuant to Education Code 52060, each district is required to update the LCAP by July 1 each year. The following optional paragraph uses the LCAP review timeline and may be revised to reflect district practice.

At least annually and in accordance with the established timelines, the Superintendent/**Principal** or designee shall

report to the Board on the outcomes for foster youth regarding the goals and specific actions identified in the LCAP, including, but not limited to, school attendance, student achievement test results, promotion and retention rates by grade level, graduation rates, and suspension/expulsion rates. As necessary, evaluation data shall be used to determine and recommend revisions to the LCAP for improving or increasing services for foster youth.

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532 (Ch. 918, Statutes of 2022), districts are required to annually report to the California Department of Education regarding the number of foster youth who, for the prior school year, graduated with an exemption from the district-established graduation requirements that are in addition to statewide coursework requirements, as specified below.

Annually, the Superintendent/Principal or designee shall report to the California Department of Education, in accordance with Education Code 51225.1, the number of foster youth graduating from the fourth or fifth year of high school who, for the prior school year, graduated with an exemption from district-established graduation requirements that are in addition to statewide coursework requirements.

**Regulation 6173.1: Education For Foster Youth**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022

**Definitions**

CSBA NOTE: Education Code 42238.01 and 48853.5, as amended by AB 181 (Ch. 52, Statutes of 2022), define "foster youth," as reflected in the following paragraph.

Foster youth, foster child, or student in foster care means any of the following: (Education Code 42238.01, 48853.5)

1. A child who is the subject of a petition filed pursuant to Welfare and Institutions Code 300, whether or not the child has been removed from the child's home by the juvenile court pursuant to Welfare and Institutions Code 319 or 361
2. A child who is the subject of a petition filed pursuant to Welfare and Institutions Code 602, whether or not the child has been removed from the child's home
3. A child who is the subject of a petition filed pursuant to Welfare and Institutions Code 602, has been removed from the child's home by the juvenile court pursuant to Welfare and Institutions Code 727, and is in foster care as defined by Welfare and Institutions Code 727.4(d)
4. A nonminor who is under the transition jurisdiction of a juvenile court, as described in Welfare and Institutions Code 450, and satisfies the criteria specified in Education Code 42238.01
5. A child who has been removed from the youth's home pursuant to Welfare and Institutions Code 309
6. A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the court's jurisdiction in accordance with the tribe's law
7. A child who is the subject of a voluntary placement agreement, as defined in Welfare and Institutions Code 11400(p)

CSBA NOTE: In instances where the rights of the parent/guardian have been limited, the court may appoint an educational representative on a temporary or long-term basis to make educational decisions for the student.

*Person holding the right to make educational decisions* means a responsible adult appointed by a court pursuant to Welfare and Institutions Code 361 or 726.

*School of origin* means the school that the foster youth attended when permanently housed or the school in which the foster youth was last enrolled. If the school the foster youth attended when permanently housed is different from the school in which the foster youth was last enrolled, or if there is another school that the foster youth attended with which the foster youth is connected and that the foster youth attended within the preceding 15 months, the district liaison, in consultation with, and with the agreement of, the foster youth and the person holding the right to make educational decisions for the foster youth shall determine, in the best interests of the foster youth, the school that shall be deemed the school of origin. (Education Code 48853.5)

CSBA NOTE: Education Code 48850 expresses the legislative intent that the "best interests" of a foster youth include educational stability as well as placement in the least restrictive educational setting necessary to achieve academic progress, as provided below.

In addition, pursuant to 20 USC 6311, determination of a student's "best interest" requires consideration of all factors relating to the student's best interest, including the appropriateness of the current educational setting and the proximity to the school in which the student is enrolled at the time of placement.

*Best interests of a foster youth* means that, in making educational and school placement decisions for a foster youth, consideration is given to, among other factors, the proximity to the school at the time of placement, appropriateness of the educational setting, educational stability, the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress, and the foster youth's access to academic resources, services, and extracurricular and enrichment activities that are available to all district students. (Education Code 48850, 48853; 20 USC 6311)

**District Liaison**

CSBA NOTE: Pursuant to Education Code 48853.5, districts are required to designate a staff person as the educational liaison for foster youth. The person may be the same individual designated as the liaison for homeless students as required by 42 USC 11432; see AR 6173 - Education for Homeless Children. In addition, Education Code 48853.5 requires that, for districts operating a foster youth services program, the liaison be affiliated with that program. The duties of the liaison are as specified below.

The Superintendent designates the following position as the district's liaison for foster youth: (Education Code 48853.5)

Superintendent/Principal \_\_\_\_\_  
(position or title)  
Richmond Elementary School District  
700-585 Richmond Road East  
Susanville, CA 96130 \_\_\_\_\_  
(address)  
(530) 257-2338 \_\_\_\_\_  
(phone number)  
jdemers@lcoe.org \_\_\_\_\_  
(email)

The liaison for foster youth shall:

1. Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of students in foster care (Education Code 48853.5)

CSBA NOTE: Education Code 48645.5 requires districts to accept for credit full or partial coursework completed in a public school or nonpublic nonsectarian school or agency in addition to a juvenile court school; see the section below entitled "Transfer of Coursework and Credits."

2. Ensure proper transfer of credits, records, and grades when students in foster care transfer from one school to another or from one district to another (Education Code 48645.5, 48853.5)

When a student in foster care is enrolling in a district school, the liaison shall contact, within two business days of the student's request for enrollment, the school last attended by the student to obtain all academic and other records. When a foster youth is transferring to a new school, the liaison shall provide the student's records to the new school within two business days of receiving the new school's request. (Education Code 48853.5)

CSBA NOTE: Pursuant to Education Code 48853.5, as amended by AB 740 (Ch. 400, Statutes of 2022), a foster youth's educational rights holder, attorney, and county social worker have the same rights as a parent/guardian to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information. See AR 5144.1 - Suspension and Expulsion/Due Process, AR 5144.2 - Suspension/Expulsion (Students with Disabilities), and BP/AR 6184 - Continuation Education.

3. Notify a foster youth's educational rights holder, attorney, and county social worker when a foster youth is undergoing any expulsion or other disciplinary proceeding including a manifestation determination for a foster youth who is a student with a disability, prior to a change in the foster youth's placement. (Education Code 48853.5, 48911, 48915.5, 48918.1)

CSBA NOTE: Items #4-8 below are optional and should be modified to reflect district practice.

4. As needed, make appropriate referrals to ensure that students in foster care receive necessary special education services and services under Section 504 of the federal Rehabilitation Act of 1973
5. As needed, ensure that students in foster care receive appropriate school-based services, such as counseling and health services, supplemental instruction, and after-school services
6. Develop protocols and procedures for creating awareness for district staff, including principals, school registrars, and attendance clerks, of the requirements for the proper enrollment, placement, and transfer of foster youth

CSBA NOTE: Optional Item #7 establishes the responsibility of the district liaison to collaborate with other local agencies to coordinate services for foster youth.

Pursuant to Education Code 42920.5-42921, the Foster Youth Services Coordinating Program provides funding for a county office of education or consortium of county offices of education to coordinate educational support for foster youth among the districts within their jurisdiction. As part of the program, such county offices must develop and implement a coordinating plan for purposes of establishing guiding principles and protocols to provide supports for foster care students. To the extent possible, such a plan must include, but is not limited to, a description of how the program will establish ongoing collaboration among local educational agencies, county child welfare agencies, and county probation departments to determine the proper educational placement of foster youth. In addition, pursuant to Education Code 42921, if a district annually certifies in writing that it is unable, using any other state, federal, local, or private funds, to provide tutoring, mentoring, and counseling for foster youth, it may enter into a temporary agreement with the foster youth services coordinating program to provide those services, if the program has established such services.

7. Collaborate with the county office of education, county placing agency, county child welfare agency, county probation department, juvenile court, and other appropriate agencies to help coordinate instruction, counseling, tutoring, mentoring vocational training, and other related services for the district's foster youth

CSBA NOTE: The following optional item facilitates the annual update of the local control and accountability plan required pursuant to Education Code 52060; see BP/AR 0460 - Local Control and Accountability Plan.

8. Monitor the educational progress of foster youth and provide reports to the Superintendent/Principal or designee and the Board of Trustees/Governing Board based on indicators identified in the district's local control and accountability plan

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

The Superintendent/Principal or designee shall regularly monitor the liaison's caseload, as well as additional duties outside of the foster youth program, to ensure that adequate time and resources are provided to meet the needs of foster youth in the district.

## Enrollment

A student placed in a licensed children's institution or foster family home within the district shall attend programs operated by the district unless one of the following circumstances applies: (Education Code 48853, 48853.5)

1. The student has an individualized education program requiring placement in a nonpublic, nonsectarian school or agency or in another local educational agency

CSBA NOTE: Pursuant to Education Code 48853, a district is required to educate foster youth in the least restrictive environment necessary for their educational achievement. However, a district may be discharged from this obligation when the parent/guardian or other person holding the right to make educational decisions for the foster youth unilaterally decides to place the foster youth in another educational program and provides the district a written statement as specified in item #2 below.

2. The parent/guardian or other person holding the right to make educational decisions for the student determines that it is in the best interests of the student to be placed in another education program and submits a written statement to the district indicating that determination and an awareness of the following:
  - a. The student has a right to attend a regular public school in the least restrictive environment
  - b. The alternate education program is a special education program, if applicable
  - c. The decision to unilaterally remove the student from the district school and to place the student in an alternate education program may not be financed by the district
  - d. Any attempt to seek reimbursement for the alternate education program may be at the expense of the parent/guardian or other person holding the right to make educational decisions for the student

CSBA NOTE: Pursuant to Education Code 48853.5, the education of a foster youth may continue in the school of origin under the circumstances stated below. Elementary and high school districts should delete any Item (#3b or c) that is not applicable to the grade levels served by the district.

3. At the initial placement or any subsequent change in placement, the student exercises the right to continue in

the school of origin, as defined above. In any such circumstance, the following shall apply:

- a. The student may continue in the school of origin for the duration of the court's jurisdiction
- b. If the court's jurisdiction over a grade K-8 student is terminated prior to the end of a school year, the student may continue in the school of origin for the remainder of the school year
- c. If the court's jurisdiction is terminated while the student is in high school, the student may continue in the school of origin through graduation
- d. If the student is transitioning between school grade levels, the student shall be allowed to continue in the district in the same attendance area to provide the student the benefit of matriculating with the student's peers in accordance with the established feeder patterns of school in the district. A student who is transitioning to a middle school or high school shall be allowed to enroll in the school designated for matriculation in another school district.

The role of the liaison shall be advisory with respect to placement decisions and determination of the school of origin. (Education Code 48853.5)

The district liaison may, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the foster youth, recommend that the foster youth's right to attend the school of origin be waived and the foster youth be enrolled in any school that students living in the attendance area in which the foster youth resides are eligible to attend. All decisions shall be made in accordance with the foster youth's best interests. (Education Code 48853.5)

Prior to making any recommendation to move a foster youth from the school of origin, the liaison shall provide the foster youth and the person holding the right to make educational decisions for the youth with a written explanation of the basis for the recommendation and how the recommendation serves the youth's best interests. (Education Code 48853.5)

**CSBA NOTE:** Pursuant to Education Code 48853.5, a district is required to immediately enroll any foster youth transferring into the district even when the foster youth has outstanding fees, fines, textbooks, or other moneys due to the last school attended or the district has not received the foster youth's academic or medical records, as listed in Items #1-3 below. However, pursuant to Health and Safety Code 120341, if a district does not receive a foster youth's immunization records prior to enrollment, the district must take steps, after the foster youth is enrolled, to obtain the immunization records or ensure that the foster youth is properly immunized. See BP/AR 5141.31 - Immunizations.

If the liaison, in consultation with the foster youth and the person holding the right to make educational decisions for the foster youth, agrees that the best interests of the foster youth would be served by a transfer to a school other than the school of origin, the principal or designee of the new school shall immediately enroll the foster youth, regardless of whether the foster youth: (Education Code 48853.5)

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

**CSBA NOTE:** Education Code 48853 and 48853.5 specify that, if a dispute arises regarding school placement, then the district shall use an existing dispute resolution process available to any district student. The following paragraph should be modified to reflect district practice.

If the foster youth or a person holding the right to make educational decisions for the foster youth disagrees with the liaison's enrollment recommendation, an appeal may be filed with the Superintendent/~~Principal~~. The Superintendent/~~Principal~~ shall make a determination within 30 calendar days of receipt of the appeal. Within 30 calendar days of receipt of the Superintendent/~~Principal~~'s decision, the foster youth or the person holding the right to make educational decisions for the foster youth may appeal that decision to the Board. The Board shall consider the issue at its next regularly scheduled meeting. The Board's decision shall be final.

If any dispute arises regarding the request of a foster youth to remain in the school of origin, the foster youth has the right to remain in the school of origin pending resolution of the dispute. (Education Code 48853.5)

## Transportation

CSBA NOTE: Pursuant to Education Code 48853.5, a district may, but is not required to, provide transportation to enable a foster youth to attend a school or school district of origin, except when it is otherwise required by federal law or pursuant to the individualized education program of a student with a disability. In accordance with 20 USC 6312, districts are mandated to collaborate with the local child welfare agency to develop clear written procedures governing how transportation will be provided, arranged, and funded to enable foster youth to attend their school of origin, when it is in their best interest to do so. The local child welfare agency may reimburse the district for any additional costs of such transportation, or the district may agree to pay for or share the costs with the child welfare agency. The following section may be revised to reflect the procedures established in collaboration with the child welfare agency, or such procedures may be incorporated into a memorandum of understanding or other document.

The Superintendent/Principal or designee shall collaborate with the local child welfare agency to determine how transportation will be provided, arranged, and funded in a cost-effective manner to enable a foster youth to remain in the school of origin, for the duration of the time spent in foster care, when it is in the foster youth's best interest to do so. Such transportation costs may be paid by either the child welfare agency or the district, or shared by both. (20 USC 6312)

CSBA NOTE: Pursuant to Education Code 39807.5, as amended by AB 181, districts that provide home-to-school transportation and other transportation as expressly provided by law, and charge fees for such transportation, are required to waive transportation fees for foster youth. See BP 3250 - Transportation Fees and AR 3260 - Fees and Charges.

Any fees that the district charges for home-to-school transportation and other transportation as expressly provided by law shall be waived for foster youth. (Education Code 39807.5)

## Effect of Absences on Grades

The grades of a student in foster care shall not be lowered for any absence from school that is due to either of the following circumstances: (Education Code 49069.5)

1. A decision by a court or placement agency to change the student's placement, in which case the grades shall be calculated as of the date the student left school
2. A verified court appearance or related court-ordered activity

## Transfer of Coursework and Credits

CSBA NOTE: The following section is for use by districts maintaining high schools. Education Code 51225.2, as amended by SB 532 (Ch. 918, Statutes of 2022), addresses the transferability of coursework and credits completed by foster youth, as provided below.

Education Code 51225.2, as amended by SB 532, requires the transferring school to include in the foster youth's educational record a determination of days of enrollment and/or seat time and an official transcript with full and partial credits and grades earned, or any measure of full or partial coursework being satisfactorily completed.

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

1. A determination of the days of enrollment and/or seat time, if applicable for all full and partial credits earned based on any measure of full or partial coursework being satisfactorily completed  
*Partial coursework satisfactorily completed includes any portion of an individual course, even if the student did not complete the entire course*
2. Separate listings for credits and grades earned at each school and local educational agency so it is clear where credits and grades were earned
3. A complete record of the student's seat time, including both period attendance and days of enrollment

The district shall transfer the credits and grades from the transferring school's transcript onto an official district

transcript in the same manner as described in Item #2, above. (Education Code 51225.2) If the Principal or designee has knowledge that the transcript from the transferring school may not include certain credits or grades, the Principal or designee shall contact the prior school within two business days to request that the full or partial credits be issued, which shall then be issued and provided by the prior school within two business days of the request. (Education Code 51225.2) The district shall accept and issue full or partial credit for any coursework that the foster youth has satisfactorily completed while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school or agency. (Education Code 51225.2)

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

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

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

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject. Partial credits and grades earned by a student shall be included on the student's official transcript within two business days of the district's notification of the student's transfer, as required under Education Code 49069.5. In no event shall the district prevent a foster youth from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

#### Applicability of Graduation Requirements

CSBA NOTE: The following section is for use by districts maintaining high schools. Also see BP 6146.1 - High School Graduation Requirements.

To obtain a high school diploma, a foster youth shall complete all courses required by Education Code 51225.3 and fulfill any additional graduation requirements prescribed by the Board. However, when a foster youth who has completed the second year of high school transfers into the district from another school district or transfers between high schools within the district, the foster youth shall be exempted from all district-established coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of the fourth year of high school. Within 30 calendar days of the foster youth's transfer, the Superintendent or designee shall notify the foster youth, the person holding the right to make educational decisions for the foster youth, and the foster youth's social worker of the availability of the exemption and whether the foster youth qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the student is no longer a foster youth. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, to determine whether a foster youth with significant gaps in school attendance is in the third or fourth year of high school, the student's age as compared to the average age of students in the third or fourth year of high school may be used.

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

CSBA NOTE: Education Code 51225.1, as amended by SB 532, requires the district to exempt a foster youth who qualifies for an exemption from district-established graduation requirements, under the circumstances described below.

If a foster youth was not properly notified of an exemption, declined the exemption, or was not previously exempted, the foster youth or the person holding the right to make educational decisions for the foster youth may

request the exemption and the Superintendent or designee shall exempt the foster youth within 30 days of the request. A student who at one time qualified for the exemption may request the exemption even if the student is no longer eligible. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, the district is required to reevaluate a foster youth's eligibility for an exemption from district-established graduation requirements, as described below. When the Superintendent or designee determines that a foster youth who transferred into a district school is reasonably able to complete district-established graduation requirements by the end of the foster youth's fourth year of high school, the foster youth shall not be exempted from those requirements. Within 30 calendar days of the following academic year, the foster youth shall be reevaluated based on the foster youth's course completion status at the time, to determine if the student continues to be reasonably able to complete the district-established graduation requirements in time to graduate by the end of the foster youth's fourth year of high school. Written notice as to whether the foster youth then qualifies for the exemption shall be provided to the foster youth, the person holding the right to make educational decisions for the foster youth, and if applicable, to the foster youth's social worker or probation officer. (Education Code 51225.1) If, upon reevaluation, it is determined that the foster youth is not reasonably able to complete the district-established graduation requirements in time to graduate from high school by the end of the foster youth's fourth year of high school, the Superintendent or designee shall provide the foster youth with the option to receive an exemption from district-established graduation requirements or stay in school for a fifth year to complete the district-established graduation requirements upon agreement with the foster youth, or if under 18 years of age, the person holding the right to make educational decisions for the foster youth, and provide notifications in accordance with Education Code 51225.1. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, the district is required to consult with a foster youth who is granted an exemption from district-established graduation requirements and the person holding the right to make educational decisions for the foster youth, as described below.

When a foster youth is exempted from district-established graduation requirements, the Superintendent or designee shall consult with the foster youth and the person holding the right to make educational decisions for the foster youth about the following: (Education Code 51225.1)

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

The district shall not require or request a foster youth to transfer schools in order to qualify for an exemption and shall not grant any request made by a foster youth or any person acting on behalf of a foster youth for a transfer solely to qualify the foster youth for an exemption. (Education Code 51225.1)

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

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

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

If a foster youth is exempted from district-established graduation requirements the exemption shall not be revoked. Additionally, the exemption shall continue to apply after the termination of the court's jurisdiction over the student while still enrolled in school or if the foster youth transfers to another school or school district. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, the district may not require or request a foster youth who is

exempted from district-established graduation requirements and completes statewide coursework requirements before the end of the foster youth's fourth year of high school to graduate early, as described below.

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

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, if the district determines that a foster youth who is eligible for the exemption from district-established graduation requirements is reasonably able to complete those requirements in time to graduate from high school by the end of the foster youth's fifth year, the district is required to provide the following:

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

1. Consult with the foster youth and the person holding the right to make educational decisions for the foster youth of the option to remain in school for a fifth year to complete the district-established graduation requirements and how that will affect the foster youth's ability to gain admission to a postsecondary educational institution
2. Consult with and provide information to the foster youth about transfer opportunities available through the California Community Colleges
3. Upon agreement with the foster youth or, if under 18 years of age, the person holding the right to make educational decisions for the foster youth, permit the foster youth to stay in school for a fifth year to complete the district-established graduation requirements
4. Consult with the foster youth and the person holding the right to make educational decisions for the foster youth of the option to remain in the foster youth's school of origin

CSBA NOTE: Pursuant to Education Code 51225.1, as amended by SB 532, until January 1, 2028, when a foster youth who has completed the second year of high school transfers into the district from another school district or transfers between high schools within the district, and is not reasonably able to complete the district-established graduation requirements, but is reasonably able to complete the statewide coursework requirements within the foster youth's fifth year of high school, the district is required to exempt the foster youth from the district-established graduation requirements and provide the foster youth with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, consultation with the foster youth and the person holding the right to make educational decisions for the foster youth is required, as provided below.

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

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

#### Eligibility for Extracurricular Activities

CSBA NOTE: Education Code 48850 provides that, when a foster youth's residence changes pursuant to a court order or decision of a child welfare worker, the student shall be immediately deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports. For additional information about eligibility requirements, see BP 6145 - Extracurricular and Cocurricular Activities.

A foster youth whose residence changes pursuant to a court order or decision of a child welfare worker shall be immediately deemed to meet all residency requirements for participation in interscholastic sports or other extracurricular activities. (Education Code 48850)

### Notification and Complaints

CSBA NOTE: Education Code 48853, 49069.5, 51225.1, and 51225.2 require that the district's annual uniform complaint procedures notification include specified information regarding the educational rights of foster youth. See AR 1312.3 - Uniform Complaint Procedures for further information regarding this notification. Pursuant to Education Code 48853.5, the California Department of Education (CDE), in consultation with the California Foster Youth Education Task Force, developed a standardized notice of the educational rights of foster youth, available on CDE's web site.

Information regarding the educational rights of foster youth shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

CSBA NOTE: Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2 provide that complaints of noncompliance with specified requirements related to the education of foster youth may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4670. As with other complaints covered under the uniform complaint procedures, a complainant may appeal the district's decision to CDE and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Any complaint alleging that the district has not complied with requirements regarding the education of foster youth may be filed in accordance with the district's procedures in AR 1312.3 - Uniform Complaint Procedures. If the district finds merit in a complaint, the district shall provide a remedy to the affected student. A complainant not satisfied with the district's decision may appeal the decision to the California Department of Education (CDE) and shall receive a written decision regarding the appeal within 60 days of CDE's receipt of the appeal. If CDE finds merit in an appeal, the district shall provide a remedy to the affected student. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

**Bylaw 9320: Meetings And Notices**

**Status:** DRAFT

**Original Adopted Date:** 12/13/2018 | **Last Revised Date:** 12/15/2022

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

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

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

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

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

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

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

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

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

Government Code 54953, as amended by AB 2449 (Ch. 285, Statutes of 2022), requires boards to maintain and

implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the ADA, and to resolve any doubt in favor of accessibility.

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent/Principal or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. Any doubt about a request for accommodation shall be resolved in favor of accessibility. (Government Code 54953, 54953.2, 54954.1, 54954.2)

Notice of the procedure for receiving and resolving requests for accommodation described above shall be given in each instance in which notice of the time of a meeting is otherwise given or the agenda for the meeting is otherwise posted. (Government Code 54953)

### Regular Meetings

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

The Board shall hold one \_\_\_\_\_ regular meeting(s) each month. Regular meetings shall be held at 6:00 \_\_\_\_\_ p.m. on the second \_\_\_\_\_ (Thursday) at the Richmond School Resource Room \_\_\_\_\_.

CSBA NOTE: Pursuant to Government Code 54954.2, the agenda for a regular meeting must be posted at least 72 hours prior to the meeting, at a location that is freely accessible to the public. Government Code 54954.2 also requires that the agenda be posted on the district's web site, if it has one. Any district that does not have a web site should delete the reference to it in the following paragraph.

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

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

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

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

Whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent/Principal or designee shall make the materials available for public inspection at a public office or location designated for that purpose or on the district web site, consistent with Government Code 54957.5, at the time the materials are distributed to all or a majority of the Board. (Government Code 54957.5)

### Special Meetings

CSBA NOTE: Education Code 35144 and Government Code 54956 allow the Board to hold special meetings to address any matter that requires timely action. For example, the Board may hold a special meeting to discuss the need for an emergency state apportionment when the district is in financial distress; see BP 3460 - Financial

Reports and Accountability. However, pursuant to Government Code 54956, certain specified matters, as described below, may not be addressed in a special meeting.

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent/~~Principal~~, assistant superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)

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

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

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

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

### Emergency Meetings

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

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

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

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

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

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

### **Adjourned/Continued Meetings**

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

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

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

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

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships.

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda for these meetings.

### **Other Gatherings**

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

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

Individual contacts or conversations between a Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

### **Location of Meetings**

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

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

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the

topic of the meeting is limited to items directly related to the property

3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on nonadversarial collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

Meetings exempted from the boundary requirements, as specified in Items #1-10 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the Board attends the meeting.

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

#### **Traditional Teleconferencing**

A teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board. (Government Code 54953)

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

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

During the teleconference, at least a quorum of the members of the Board shall participate from locations within district boundaries. (Government Code 54953)

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

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

#### **Teleconferencing During a Personal Emergency**

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

Until January 1, 2026, with approval from the majority of the Board, a Board member may be permitted to participate in a meeting remotely when a physical or family medical emergency prevents the Board member from attending in person. The Board member requesting to appear remotely shall notify the Board of the emergency situation as soon as possible, and provide a concise general description of the circumstances relating to the Board member's need to appear remotely. The Board member shall not be required to disclose any disability, medical diagnosis, or personal medical information exempt under existing law. (Government Code 54953)

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

When a Board member is approved to participate remotely due to emergency circumstances, the Board member is not required to participate from a location which is accessible to the public and the location does not need to be identified on the agenda. (Government Code 54953)

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

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

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

#### Teleconferencing for "Just Cause"

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

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

*Just Cause* may exist for any of the following: (Government Code 54953)

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

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

If the Board member participates remotely, the Board member shall utilize both audio and visual technology and publicly disclose, before any action is taken, whether any other individuals 18 years or older are present in the

remote location with the Board member, and the general nature of the member's relationship with such individuals. (Government Code 54953)

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

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

### Teleconferencing During a Proclaimed State of Emergency

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

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

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

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

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

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

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act
2. The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option

Members of the public may be required to register to log in to a meeting when making public comments through an internet web site or other online platform that is operated by a third-party and not under the control of the Board.

3. Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3

4. Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time
5. Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed
6. If during a Board meeting a disruption occurs which prevents the district from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the district's control that prevents members of the public from offering public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored

The district may, in its discretion, provide a physical location from which the public may attend or comment.  
(Government Code 54953)

The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)

1. The state of emergency continues to directly impact the ability of the Board to meet safely in person
  2. State or local officials continue to impose or recommend measures to promote social distancing
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**Policy 3515: Campus Security**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022 | **Last Reviewed Date:** 12/15/2022

The Board of Trustees is committed to providing a school environment that promotes the safety of students, staff, and visitors to school grounds. The Board also recognizes the importance of protecting district property, facilities, and equipment from vandalism and theft.

The Superintendent/Principal or designee shall develop campus security procedures, which may be included in the district's comprehensive safety plan and/or site-level safety plans. Such procedures shall be regularly reviewed to reflect changed circumstances and to assess their effectiveness in achieving safe school objectives.

**Surveillance Systems**

The Board believes that reasonable use of surveillance cameras will help the district achieve its goals for campus security. In consultation with the district's safety planning committee, other relevant stakeholders, and staff, the Superintendent/Principal or designee shall identify appropriate locations for the placement of surveillance cameras. Cameras shall not be placed in areas where students, staff, or community members have a reasonable expectation of privacy. Any audio capability on the district's surveillance equipment shall be disabled so that sounds are not recorded.

Prior to the operation of the surveillance system, the Superintendent/Principal or designee shall ensure that signs are posted at conspicuous and targeted locations around school buildings and grounds. These signs shall state that the facility uses video surveillance equipment for security purposes and that the equipment may or may not be actively monitored at any time. The Superintendent/Principal or designee shall also provide prior written notice to students and parents/guardians about the district's surveillance system, including the locations where surveillance may occur and that the recordings may be used in disciplinary proceedings and/or referred to local law enforcement, as appropriate.

The Superintendent/Principal or designee shall develop campus security procedures which are consistent with the District's Comprehensive School Safety Plan. Such procedures shall be regularly reviewed to reflect changed circumstances and to assess their effectiveness in achieving its goals for campus security.

To the extent that any images from the district's surveillance system create a student or personnel record, the Superintendent/Principal or designee shall ensure that the images are accessed, retained, and disclosed in accordance with law, Board policy, administrative regulation, and any applicable collective bargaining agreements.

## **Regulation 3515: Campus Security**

**Status:** DRAFT

**Original Adopted Date:** 12/09/2014 | **Last Revised Date:** 12/15/2022 | **Last Reviewed Date:** 12/15/2022

The Superintendent/Principal or designee shall develop a campus security plan which contributes to a positive school climate, fosters social and emotional learning and student well-being, and includes strategies to:

1. Secure the campus perimeter and school facilities in order to prevent criminal activity

These strategies include a risk management analysis of each campus' security system, lighting system, and fencing. Procedures to ensure unobstructed views and eliminate blind spots caused by doorways and landscaping shall also be considered. In addition, parking lot design may be studied, including methods to discourage through traffic.

2. Secure buildings and interior spaces from outsiders and discourage trespassing

These strategies may include installing locks, requiring visitor registration, providing staff and student identification tags, and patrolling places used for congregating and loitering.

3. Discourage vandalism and graffiti

These strategies may include plans to immediately cover graffiti and implement campus beautification.

4. Control access to keys and other school inventory

5. Detect and intervene with school crime

These strategies may include creating a school watch program, increasing adult presence and supervision, establishing an anonymous crime reporting system, analyzing school crime incidents, and collaborating with local law enforcement agencies, including providing for law enforcement presence.

All staff shall receive training in building and grounds security procedures and emergency response.

### **Locks**

All state-funded new construction and modernization projects shall include locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside. Student restrooms and doors that lock from the outside at all times are not required to have locks that can be locked from the inside. (Education Code 17075.50, 17583; 24 CCR 1010.1.9, 1010.1.11)

### **Keys**

All keys used in a school shall be the responsibility of the Superintendent/Principal or designee. Keys shall be issued only to authorized employees who regularly need a key in order to carry out their job responsibilities.

The Superintendent/Principal or designee shall create a key control system with a record of each key assigned and room(s) or building(s) which the key opens.

Keys shall never be loaned to students, parents/guardians, or volunteers, nor shall the master key ever be loaned.

Any person issued a key shall be responsible for its safekeeping. The duplication of school keys is prohibited. If a key is lost, the person responsible shall immediately report the loss to the Superintendent/Principal or designee and shall pay for a replacement key.

### **Use of Surveillance Cameras**

The Board believes that reasonable use of surveillance cameras will help the district achieve its goals for campus security. In consultation with the district's safety planning committee, other relevant stakeholders, and staff, the Superintendent/Principal or designee shall identify appropriate locations for the placement of surveillance cameras. Cameras shall not be placed in areas where students, staff, or community members have a reasonable expectation of privacy. Any audio capability on the district's surveillance equipment shall be disabled so that sounds are not

recorded. Cameras may be used to monitor buildings, exterior campus areas, including but not limited to; parking lots, perimeters, walkways, entrance and exit doors, large open interior spaces, cafeterias, picnic areas, lobbies, gymnasiums, athletic fields, and other areas the Superintendent/Principal or designee deems appropriate.

Concealed or non-working cameras will not be used on school grounds. Any audio capability on the District's surveillance equipment will be disabled so that sounds are not recorded. Prior to the operation of the surveillance system, the Superintendent/Principal or designee shall ensure that signs are posted at conspicuous areas so that students, staff and visitors are reasonably informed that the facility uses video surveillance equipment for security purposes.

The Superintendent/Principal or designee shall also provide prior written notice to students and parents/guardians about the district's surveillance system, including the locations where surveillance may occur, explaining that the recordings may be used in disciplinary proceedings, and that matters captured by the surveillance camera(s) may be referred to local law enforcement, as appropriate under Board policy or required by law. Students and staff shall not tamper or interfere with surveillance equipment.

#### **Student Records**

#### **Personnel Records**

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**RICHMOND SCHOOL BOARD MEETING**  
**May 11, 2023**

**BILL WARRANT TOTALS**

**APRIL Bills – Batch #23, #24**

FUND 01	GENERAL	\$ 22,767.43
FUND 13	CAFETERIA	\$ 3,998.11
FUND 14	DEFERRED MAINTENANCE	\$ 7,507.50
FUND 25	DEVELOPER FEES	\$ 0.00
FUND 40	CAPITAL OUTLAY	<u>\$ 0.00</u>
<b>TOTAL MONEY PAID</b>		<b>\$ 34,273.04</b>

<b>TOTAL MONEY PAID</b>	<b>\$34,273.04</b>
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Vendor/Addr Remit name	Req Reference	Date	Description	Tax ID num	Deposit type	Fd-Resc	Y-Objt	Goal-Func	Sch-DD	T9MPS	ABA num	Account num	EE	ES	E-Term	E-ExtRef
													Liq	Ant	Net	Amount

100040/00	C&S WASTE SOLUTIONS															
	P O BOX 7428															
	PASADENA, CA															
	91109-7428															

230010	PO-230010	03/29/2023	174914669U037	APR SERVICES	1	01-0000-0-5520-0000-8200-000-00	NN	P					489.28	489.28		489.28
TOTAL PAYMENT AMOUNT													489.28			

100899/00	COUNTY CLEANERS															
	802 MAIN STREET															
	SUSANVILLE, CA															
	96130															

PV-230274	03/01/2023	INV 8863	- TOWELS													
TOTAL PAYMENT AMOUNT													40.00	*		

100751/00	CSM, INC.															
	P.O. BOX 4408															
	EL DORADO HILLS, CA															
	95762															

230070	PO-230070	03/31/2023	INV 16148	JAN-MAR SERVICES	1	01-0000-0-5800-0000-7200-000-00	NN	P					1,000.00	1,000.00		1,000.00
TOTAL PAYMENT AMOUNT													1,000.00	*		

100031/00	INLAND SUPPLY COMPANY INC															
	PO BOX 10048															
	RENO, NV															
	89510															

230084	PO-230084	04/03/2023	INV 1074175	CUSTODIAL SUPPLIES	1	01-0000-0-4300-0000-8200-000-00	NN	P					352.83	352.83		352.83
TOTAL PAYMENT AMOUNT													352.83	*		

100038/00	LASSEN COUNTY OFFICE OF EDUCAT															
	472-013 JOHNSTONVILLE ROAD N															
	SUSANVILLE, CA															
	96130															

230032	PO-230032	03/28/2023	MAR PHONES													
TOTAL PAYMENT AMOUNT													250.00	*		

<< Open >>

GENERAL FUND

Vendor/Addr	Remit name	Tax ID num	Deposit type	ABA num	Account num	EE	ES	E-Term	E-ExtRef
Req Reference	Date	Description	Fd-Resc-Y-Objt-Goal-Func-Sch-DD	T9MPS	Liq Amt	Net Amount			
100039/00	LASSEN MUNICIPAL UTILITY DIST								
	65 SOUTH ROOP								
	SUSANVILLE, CA 96130								
230012	PO-230012	03/25/2023	45198 STORAGE/PUMP	1 01-0000-0-5510-0000-8200-000-00	NN P	210.12			210.12
230012	PO-230012	03/25/2023	43357 GYMNASIUM	1 01-0000-0-5510-0000-8200-000-00	NN P	525.01			525.01
230012	PO-230012	03/25/2023	45197 COMPUTER LAB	1 01-0000-0-5510-0000-8200-000-00	NN P	346.43			346.43
230012	PO-230012	03/25/2023	54775 3 PHASE METER	1 01-0000-0-5510-0000-8200-000-00	NN P	30.89			30.89
230012	PO-230012	03/25/2023	35778 PRIM MODL	1 01-0000-0-5510-0000-8200-000-00	NN P	131.15			131.15
	TOTAL PAYMENT AMOUNT				1,243.60 *	1,243.60			1,243.60
100942/00	LINDA REA-LILE								
	700-050 OLD ARCHERY ROAD								
	SUSANVILLE, CA 96130								
PV-230275	04/11/2023	RMB - CLASSROOM SUPPLIES	01-6300-0-4300-1110-1000-000-00	NN		132.01			132.01
PV-230275	04/11/2023	RMB - CLASSROOM SUPPLIES	01-0000-0-4300-1110-1000-000-KG	NN		7.29			7.29
	TOTAL PAYMENT AMOUNT				139.30 *	139.30			139.30
101020/00	PLUMAS-SIERRA TELECOM								
	P.O. BOX 1057								
	PORTOLA, CA 96122-1057								
230014	PO-230014	03/31/2023	APR BROADBAND	1 01-0000-0-5900-0000-7200-000-00	NN P	83.54			83.54
	TOTAL PAYMENT AMOUNT				83.54 *	83.54			83.54
100036/00	Staub & Sons, ED								
	P.O. BOX 488								
	KLAMATH FALLS, OR 97601-0339								
230087	PO-230087	03/29/2023	INV 9006685 PROPANE	1 01-0000-0-5530-0000-8200-000-00	NN P	848.59			848.59
230087	PO-230087	03/29/2023	INV 9006686 PROPANE	1 01-0000-0-5530-0000-8200-000-00	NN P	509.01			509.01
230087	PO-230087	04/07/2023	INV 9051558 PROPANE	1 01-0000-0-5530-0000-8200-000-00	NN P	788.72			788.72
230087	PO-230087	04/07/2023	INV 9051559 PROPANE	1 01-0000-0-5530-0000-8200-000-00	NN P	529.13			529.13
	TOTAL PAYMENT AMOUNT				2,675.45 *	2,675.45			2,675.45
	TOTAL Fund		PAYMENT		6,274.00 **	6,274.00			6,274.00

Vendor/Addr Remit name	Description	Tax ID num	Deposit type	Fd-Resc-Y-Objt-Goal-Func-Sch-DD	Account num	EE ES	E-Term	E-ExtRef
Req Reference	Date					Liq Amt		Net Amount
100767/00	LASSEN RENTS							
	P.O. BOX 270684							
	SUSANVILLE, CA 96127							

230090 PO-230090 03/31/2023 2 STORAGE CONTAINERS  
 1 14-0000-0-4400-0000-8100-000-00 NN F 7,507.50 7,507.50  
 TOTAL PAYMENT AMOUNT 7,507.50 \*

TOTAL Fund	PAYMENT	7,507.50 **		7,507.50
TOTAL BATCH PAYMENT		13,781.50 ***	0.00	13,781.50
TOTAL DISTRICT PAYMENT		13,781.50 ****	0.00	13,781.50
TOTAL FOR ALL DISTRICTS:		13,781.50 ****	0.00	13,781.50

Number of checks to be printed: 10, not counting voids due to stub overflows.

Vendor/Addr	Remit name	Reg Reference	Date	Description	Tax ID num	Deposit type	Fd-Resc-Y-Objt-Goal-Func-Sch-DD	ABA num	Account num	EE ES	E-Term	E-ExtRef
										Lig Amt	Net Amount	
101122/00	AMBER BRYANT											
	472-555 DEBI DRIVE											
	SUSANVILLE, CA 96130											
PV-230285	04/17/2023	RMB - SEL SUPPLIES					01-6300-0-4300-1110-1000-000-00	NN				
							19.57 *					19.57
												19.57
101071/00	CASA STUDIO											
	1100 LINCOLN AVENUE, #202B											
	NAPA, CA 94558											
230092	PO-230092	03/03/2023	INV 1072 - ARCHTECT SERVICES				1 01-0000-0-5800-0000-7100-000-00	NN F		4,455.00		4,455.00
							4,455.00 *					4,455.00
100976/00	CATAPULTK12											
	5098 FOOTHILLS BLVD.											
	SUITE 3, #396											
	ROSEVILLE, CA 95747											
230009	PO-230009	04/25/2023	APR & MAY SERVICES				1 01-0000-0-5800-0000-7200-000-00	NN P		138.60		138.60
							138.60 *					138.60
101120/00	EB ACADEMICS											
	ATTN: CAITLIN MITCHELL											
	PO BOX 7											
	SAN ANSELMO, CA 94960											
230093	PO-230093	04/25/2023	EB ALL-ACCESS				1 01-1100-0-4300-1110-1000-000-00	NN F		3,988.00		3,988.00
							3,988.00 *					3,988.00
100827/00	FGL ENVIRONMENTAL											
	853 CORPORATION STREET											
	SANTA PAULA, CA 93060											
230054	PO-230054	04/05/2023	INV 371716A WATER TESTING				1 01-8150-0-5800-0000-8100-000-00	NN P		33.00		33.00
							1 01-8150-0-5800-0000-8100-000-00	NN P		76.00		76.00
							1 01-8150-0-5800-0000-8100-000-00	NN P		76.00		76.00
							185.00 *					185.00

ACCOUNTS PAYABLE PRELIST  
BATCH: 0024 APR BILLS #24  
Fund : 01 GENERAL FUND

Vendor/Addr	Remit name	Req Reference	Date	Description	Tax ID num	Deposit type	Fd-Resc-Y-Objt-Goal-Func-Sch-DD	ABA num	Account num	EE ES	E-Term	E-ExtRef
										Liq Amt		Net Amount
101115/00	IDA BRUCE											
	699-475 EAGLE DRIVE											
	SUSANVILLE, CA 96130											
PV-230276	04/25/2023	RMB - CLASSROOM SUPPLIES					01-0000-0-4300-1110-1000-000-00	NN				
							91.84 *					91.84
												91.84
101123/00	JAN DEMERS											
	700-585 RICHMOND ROAD											
	SUSANVILLE, CA 96130											
PV-230286	03/19/2023	SUPPLIES - ELOP PD					01-2600-0-4300-1110-1000-000-00	NN				
							42.22 *					42.22
												42.22
100534/00	KINGSLEY BOGARD LLP											
	600 COOLIDGE DRIVE											
	SUITE #160											
	FOLSOM, CA 95630											
230094	PO-230094	04/25/2023	INV	27300 LEGAL SERVICES			1 01-0000-0-5800-0000-7100-000-00	NY F		1,700.00		1,700.00
							2 01-0000-0-5800-0000-7110-000-00	NY F		1,700.00		1,700.00
												3,400.00
							3,400.00 *					
100675/00	MORGAN COMPANY, RAY											
	3131 ESPLANADE											
	CHICO, CA 95973											
230022	PO-230022	04/01/2023	INV	4073310 APR COPIER MAINT			1 01-0000-0-5800-1110-1000-000-00	NN P		122.96		122.96
							2 01-0000-0-5800-0000-7200-000-00	NN P		122.96		122.96
												245.92
							245.92 *					
100046/00	PAYLESS BUILDING SUPPLY											
	PO BOX 1744											
	SUSANVILLE, CA 96130											
230095	PO-230095	03/30/2023	INV	117053 - LUMBER			1 01-8150-0-4300-0000-8100-000-00	NN F		339.48		339.48
												339.48
							339.48 *					

## ACCOUNTS PAYABLE PRELIST

BATCH: 0024 APR BILLS #24

Fund : 01 GENERAL FUND

Vendor/Addr Remit name Req Reference Date Description	Tax ID num	Deposit type	Fd-Resc-Y-Objt-Goal-Func-Sch-DD	ABA num	Account num	EE ES	E-Term	E-ExtRef
						Liq Amt	Net Amount	
100154/00 SHIFFLER EQUIPMENT SALES INC P.O. BOX 78000 DEPT 781437 DETROIT, MI 48278								
230096 PO-230096 03/30/2023 2304603101 BLDG. SUPPLIES	1	01-8150-0-4300-0000-8100-000-00	NN F	684.19 *		684.19		684.19
	TOTAL PAYMENT AMOUNT							
101108/00 STERICYCLE 28883 NETWORK PLACE CHICAGO, IL 60673-1288								
230052 PO-230052 04/18/2023 INV 8003749401 APR SERVICE	1	01-0000-0-5800-0000-7200-000-00	NN P			64.70		64.70
230052 PO-230052 04/18/2023 INV 8003749401 APR SERVICE	2	01-0000-0-5800-1110-1000-000-00	NN P			64.70		64.70
	TOTAL PAYMENT AMOUNT							
101098/00 SUMMIT FIRE & SECURITY P.O. BOX 6783 CAROL STREAM, IL 60197-6783								
230097 PO-230097 04/01/2023 INV 2127207 FIRE SYS REPAIR	1	01-8150-0-5800-0000-8100-000-00	NN F	1,857.00 *		1,857.00		1,857.00
	TOTAL PAYMENT AMOUNT							
101121/00 ULINE ACCOUNTS RECEIVABLE PO BOX 88741 CHICAGO, IL 60680								
230098 PO-230098 04/01/2023 INV 159994012 STORAGE SUPPLIES	1	01-8150-0-4300-0000-8100-000-00	NN F	354.87 *		354.87		354.87
	TOTAL PAYMENT AMOUNT							
100736/00 US BANK EQUIPMENT FINANCE P.O. BOX 790448 ST LOUIS, MO 63179-0448								
230005 PO-230005 04/17/2023 INV 499310449 COPIER LEASE	1	01-0000-0-5800-0000-7200-000-00	NN P			255.54		255.54
230005 PO-230005 04/17/2023 INV 499310449 COPIER LEASE	2	01-0000-0-5800-1110-1000-000-00	NN P			255.54		255.54
	TOTAL PAYMENT AMOUNT							

Vendor/Addr	Remit name	Date	Description	Tax ID num	Deposit type	Fd-Resc-Y	Objt-Goal	ABA num	Account num	EE ES	E-Term	E-ExtRef
Req Reference										Liq Amt	Net Amount	

100108/00	WESTERN NEVADA SUPPLY											
	PO BOX 31001-1161											
	PASADENA, CA 91110-1161											

PV-230277 04/25/2023 INV 69619603 SUPPLIES

TOTAL PAYMENT AMOUNT	01-8150-0-4300-0000-8100-0000-00 NN	51.26 *	51.26
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TOTAL Fund	PAYMENT	16,493.43 **	16,493.43
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Vendor/Addr	Remit name	Tax ID num	Deposit type	Fd-Resc	Y-Objt	Goal-Func	Sch-DD	T9MPS	EE	ES	E-Term	E-Ext
Req Reference	Date	Description							Liq Amt	Net Amount		
100904/00	BONANZA PRODUCE CO											
	P.O. BOX 604											
	SPARKS, NV 89432											
PV-230278	03/02/2023	INV 3608235 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				155.65			
PV-230279	03/09/2023	INV 3609789 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				111.45			
PV-230280	03/09/2023	INV 3609790 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				47.30			
PV-230281	03/16/2023	INV 3611481 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				149.35			
PV-230282	03/23/2023	INV 3613094 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				178.20			
PV-230283	03/30/2023	INV 3614632 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				82.20			
		TOTAL PAYMENT AMOUNT		724.15 *					724.15			
100911/00	CALVADA SALES COMPANY											
	P.O. BOX 13159											
	SACRAMENTO, CA 95813											
PV-230284	03/08/2023	INV 1091188 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				252.60			
		TOTAL PAYMENT AMOUNT		252.60 *					252.60			
100514/00	PIZZA FACTORY											
	P.O. BOX 1087											
	JANESVILLE, CA 96114											
PV-230287	03/01/2023	INV 1194 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				1,182.09			
		TOTAL PAYMENT AMOUNT		1,182.09 *					1,182.09			
100990/00	SYSKO FOOD SVCS OF SACRAMENTO											
	P.O. BOX 138007											
	SACRAMENTO, CA 95813-8007											
PV-230288	03/13/2023	INV 431248899 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				811.42			
PV-230288	03/13/2023	INV 431248899 - SUPPLIES		13-5310-0-4300-0000-3700-000-00	NN				143.43			
PV-230289	03/20/2023	INV 431261448 - FOOD		13-5310-0-4700-0000-3700-000-00	NN				884.42			
		TOTAL PAYMENT AMOUNT		1,839.27 *					1,839.27			
		TOTAL Fund PAYMENT		3,998.11 **					3,998.11			
		TOTAL BATCH PAYMENT		20,491.54 ***					20,491.54			
		TOTAL DISTRICT PAYMENT		20,491.54 ****					20,491.54			
		TOTAL FOR ALL DISTRICTS:		20,491.54 ****					20,491.54			
Number of checks to be printed: 20, not counting voids due to stub overflows.												