**CLASS SIZE**

The Governing Board recognizes that smaller classes may contribute to student learning by allowing teachers to better identify and respond to individual student needs. In accordance with negotiated employee agreements and state law, the Board shall establish class size limits appropriate for each grade level or subject taught and conducive to the effective use of teaching staff.

*(cf. 4141/4241 - Collective Bargaining Agreement)*

The highest priority for maintaining small class sizes shall be in the primary grades in order to support young students as they acquire the basic skills that serve as the foundation for subsequent learning. Other priorities shall be established in accordance with the goals and strategies identified in the district's local control and accountability plan (LCAP).

*(cf. 0200 - Goals for the School District)*
*(cf. 0460 - Local Control and Accountability Plan)*

For grades K-3, the district shall annually make progress toward maintaining an average class of not more than 24 students, unless an alternative annual average class size for each school site is collectively bargained. (Education Code 42238.02; 5 CCR 15498-15498.3)

Transitional kindergarten classes established pursuant to Education Code 48000 shall be included in the calculation of average class enrollment for kindergarten.

*(cf. 6170.1 - Transitional Kindergarten)*

At the secondary level, district priorities for class size reduction shall focus on English language arts, mathematics, science, social studies, and other courses that are necessary for completion of graduation requirements and shall be aligned with student needs as identified in the district's LCAP.

*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - Graduation Requirements)*

The Superintendent or designee shall provide the Board with an analysis of staffing and school facilities needs and other costs related to class size reduction proposals.

*(cf. 3100 - Budget)*
*(cf. 6117 - Year-Round Schedules)*
*(cf. 7111 - Evaluating Existing Buildings)*

**CLASS SIZE** (continued)

The Superintendent or designee shall annually report to the Board regarding the impact of the class size reduction program on student achievement and other outcomes such as changes in school climate and student engagement.

*(cf. 0500 - Accountability)*
*(cf. 6162.5 - Student Assessment)*

*Legal Reference:*
*EDUCATION CODE*
*17042 Rules for determining area of adequate school construction; exceptions*
*17042.7 Formula for calculation*
*33050 Nonwaivable provisions*
*35160 Authority of the board*
*42238.02 Local control funding formula, including adjustment for class size reduction*
*42280 Necessary small schools*
*46205 Computation for early-late programs*
*51225.3 Graduation requirements*
*52060-52077 Local control and accountability plan*
*GOVERNMENT CODE*
*3543.2 Scope of representation*

*Management Resources:*
*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education: http://www.cde.ca.gov*

**CLASS ASSIGNMENT**

The Governing Board believes students should be assigned to classes and/or grouped in a manner that provides the most effective learning environment for all students.

When assigning students to specific classes, the principal or designee may consider the following criteria:

1. Staff recommendation, including, but not limited to, the recommendations of teachers and counselors

2. Skills and classroom management style of individual teachers

3. Student skill level as indicated by achievement and testing data

*(cf. 5121 - Grades/Evaluation of Student Achievement)*
*(cf. 6162.51 - State Academic Achievement Tests)*

4. Balance of high, medium, and low academic achievers

5. Student interests, readiness, behavior, and motivation

6. Student/teacher ratios and, if relevant, class size reduction considerations

*(cf. 6151 - Class Size)*

The principal or designee may accept from parents/guardians any information which would be helpful in making placement decisions. However, a parent/guardian who provides such information shall be informed that a request for a specific teacher shall be one of many factors which may be taken into account when determining his/her child's placement.

During the school year, the principal or designee may make any adjustments in class placement which he/she considers beneficial to the student or the educational program.

*Legal Reference:*
*EDUCATION CODE*
*35020 Duties of employees fixed by governing board*
*35160 Authority of the board*

*Management Resources:*
*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Elementary Makes the Grade!, 2000*
*WEB SITES*
*California Department of Education, Curriculum and Instruction: http://www.cde.ca.gov/ci*
*National Association for the Education of Young Children: http://www.naeyc.org*

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## SCHOOL-SPONSORED TRIPS

The Governing Board recognizes that school-sponsored trips are an important component of a student's development and supplement and enrich the classroom learning experience. School-sponsored trips may be conducted in connection with the district's course of study or school-related social, educational, cultural, athletic, school band activities, or other extracurricular or cocurricular activities. A field trip to a foreign country may be permitted to familiarize students with the language, history, geography, natural science, and other studies relative to the district's course of study.

*(cf. 6143 - Courses of Study)*
*(cf. 6145 - Extracurricular and Cocurricular Activities)*
*(cf. 6145.2 - Athletic Competition)*

Requests for school-sponsored trips involving out-of-state, out-of-country, or overnight travel shall be submitted to the Superintendent or designee. The Superintendent or designee shall review the request and make a recommendation to the Board as to whether the request should be approved by the Board. All other school-sponsored trips shall be approved in advance by the principal.

*(cf. 3312.2 - Educational Travel Program Contracts)*

The principal shall establish a process for approving a staff member's request to conduct a school-sponsored trip. When planning trips, staff shall consider student safety, objectives of instruction, the most effective use of instructional time, the distance from school, district and student expense, and transportation and supervision requirements. Principals may exclude from the trip any student whose presence on the trip would pose a safety or disciplinary risk.

*(cf. 3530 - Risk Management/Insurance)*
*(cf. 3541.1 - Transportation for School-Related Trips)*
*(cf. 5142 - Safety)*
*(cf. 5143 - Insurance)*
*(cf. 5144 – Discipline)*
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

No field trip shall be authorized if any student would be excluded from participation because of a lack of sufficient funds. The Superintendent or designee shall coordinate with community groups to supply funds for students in need. (Education Code 35330)

*(cf. 1230 - School-Connected Organizations)*
*(cf. 1321 - Solicitation of Funds from and by Students)*
*(cf. 1700 - Relations Between Private Industry and the Schools)*

District funds shall not be used to pay student expenses for out-of-state or out-of-country field trips or excursions. However, expenses of instructors, chaperones, and other personnel participating in such trips, as well as incidental expenses for the use of district equipment during the trip, may be paid from district funds. (Education Code 35330)

**SCHOOL-SPONSORED TRIPS** (continued)

*Legal Reference:*

*EDUCATION CODE*
*8760 Authorization of outdoor science and conservation programs*
*32040-32044 First aid equipment: field trips*
*35330 Excursions and field trips*
*35331 Provision for medical or hospital service for pupils (on field trips)*
*35332 Transportation by chartered airline*
*35350 Transportation of students*
*44808 Liability when pupils not on school property*
*48908 Duties of pupils; authority of teachers*
*BUSINESS AND PROFESSIONS CODE*
*17540 Travel promoters*
*17550-17550.9 Sellers of travel*
*17552-17556.5 Educational travel organizations*

*Management Resources:*

*WEB SITES*
*American Red Cross: http://www.redcross.org*
*California Association of Directors of Activities: http://www.cada1.org*
*U.S. Department of Homeland Security: http://www.dhs.gov*

## SCHOOL-SPONSORED TRIPS

### Supervision

Students on school-sponsored trips are under the jurisdiction of the district and shall be subject to district and school rules and regulations.

*(cf. 5131 - Conduct)*
*(cf. 5131.1 - Bus Conduct)*
*(cf. 5144 - Discipline)*
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

The Superintendent or designee shall ensure that adequate supervision is provided on all school-sponsored trips and that there is an appropriate ratio of adults to students present on the trip.

**For day trips**

| | |
|---|---|
| Grades K and 1: | a ratio of one to seven |
| Grades 2 and 3: | a ratio of one to ten |
| Grades 4 – 8: | a ratio of one to eleven |
| Grades 9 – 12: | a ratio of one to fifteen |

**For overnight trips (in or out of state)**

| | |
|---|---|
| Grades K and 1: | a ratio of one to four |
| Grades 2 and 3: | a ratio of one to five |
| Grades 4 – 8: | a ratio of one to six |
| Grades 9 – 12: | a ratio of one to eight |

If the trip involves water activities, this ratio shall be revised as necessary. Principals and teachers shall add additional chaperones in cases where the circumstances of a particular trip and needs of the students warrant additional adult supervision to ensure student safety. For overnight trips, adult chaperones shall meet the minimum required male/female student ratio. Teachers and other chaperones shall not take along any children who would not otherwise be included as part of the school group attending the trip.



**SCHOOL-SPONSORED TRIPS** (continued)

### Parent/Guardian Permission

Before a student can participate in a school-sponsored trip, the teacher shall obtain parent/guardian permission for the trip. Whenever a trip involves water activities, the parent/guardian shall provide specific permission for his/her child to participate in the water activities. The district shall provide an alternative educational experience for students whose parents/guardians do not wish them to participate in a trip.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents/guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims. (Education Code 35330)

### Safety Issues

1. While conducting a trip, the teacher, employee, or agent of the school shall have the school's first aid kit in his/her possession or immediately available. (Education Code 32041)

Whenever trips are conducted in areas known to be infested with poisonous snakes, the first aid kit taken on the trip shall contain medically accepted snakebite remedies. In addition, a teacher, employee, or agent of the school who has completed a first aid course which is certified by the American Red Cross and which emphasizes the treatment of snakebites shall participate in the trip. (Education Code 32043)

2. The district shall provide or make available medical and/or hospital insurance for students injured while participating in any excursion or field trip. (Education Code 35331)

*(cf. 3541.1 - Transportation for School-Related Trips)*
*(cf. 5143 - Insurance)*

3. If the Superintendent or designee receives threat level warnings from the Homeland Security Advisory System pertaining to the destination of a school-sponsored trip, he/she shall implement precautions necessary to protect the safety of students and staff.

*(cf. 0450 - Comprehensive Safety Plan)*
*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

4. Lifeguards are required for all swimming activities. If the activity is at a private pool, the owner of the pool shall provide a certificate of insurance, designating the district as an additional insured, for not less than $500,000 in liability coverage. Staff shall determine supervisory responsibilities for all chaperones.

*(cf. 3530 - Risk Management/Insurance)*
*(cf. 5141.7 - Sun Safety)*



**SCHOOL-SPONSORED TRIPS** (continued)

5. Before trips of more than one day, the principal or designee may hold a meeting for staff, chaperones, parents/guardians, and students to discuss safety and the importance of safety-related rules for the trip.

*(cf. 5142 - Safety)*

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**Funding**

No student shall be prevented from making a trip because of a lack of sufficient funds. No trip shall be authorized if any student would be excluded from participation because of a lack of sufficient funds. (Education Code 35330)

**TRIP APPROVAL**

**Day trips within the state:**

1. Teachers planning a trip shall make a request in writing to the principal at least two weeks prior to the date desired. Whenever practical, an alternate date should also be listed. The purpose of the trip and its relation to the course of study shall be stated in the request.
2. The principal shall approve or disapprove the request and notify the teacher. If the trip is disapproved, the principal should state the reasons.
3. Principals may exclude from the trip any student whose presence on the trip would pose a safety or disciplinary risk.
4. Principals shall approve no activities which they consider to be inherently dangerous to students or to pose unacceptable, unmitigated risks.

**Overnight Trips Within the State:**

1. Teachers planning an overnight trip within the state shall first secure permission in writing from the site principal.

2. At least four weeks prior to the date desired, the principal shall forward details of the proposed trip, along with his/her recommendation, to the Superintendent or designee for Educational Services for approval.
3. Teachers conducting overnight trips shall ensure that an adequate number of male and female chaperones are present if students of both genders will attend.
4. For Outdoor Education only, outdoor education adult staff may be counted for the chaperone to student ratio.
5. The Superintendent or designee shall approve or disapprove the request and notify the principal. If the trip is disapproved, the Superintendent or designee shall state the reasons.



**SCHOOL-SPONSORED TRIPS** (continued)

**Overnight Trips Outside the State:**

1. Teachers planning an overnight trip outside the state shall first secure permission in writing from the site principal.
2. At least three months prior to the date desired, the principal shall forward to the Superintendent or designee for Educational Services the following information to be brought to the Board for approval:
    1. activity or class
    2. complete itinerary
    3. purpose of trip
    4. type of transportation
    5. number of students
    6. method of financing
    7. names and addresses of chaperones
3. The Superintendent or designee shall notify the site principal of the decision of the Board.

Schools will establish academic and behavioral standards for students to uphold in order to participate in school study trips. Teachers and administrators will communicate with students and parents whenever students fail to uphold the standards and are in jeopardy of being excluded from a study trip. Students and parents will be given adequate support and time to work toward reaching standards before the student is excluded from the study trip. If this process is followed, teachers and administrators reserve the right to exclude students from study trips.

**Trips That Include Swimming or Wading**

1. **There will be no swimming in oceans, rivers, lakes or any body of**

   **water except swimming pools.**

2. Swimming in swimming pools on trips must be approved in advance by the Superintendent or designee.
3. There will be no river rafting.
4. When wading at the edge of the ocean, bay, river or other body of water as part of a planned, supervised outdoor education activity, teachers shall provide for a number of chaperones as defined in 5.e. below. Both chaperones and students shall be informed of the real and potential risks inherent in such activities and the precautions necessary for their safety. Prior approval is needed.
5. Swimming Activities
    1. Parents/legal guardians must provide written permission for the student to swim and must indicate the student's swimming ability.
    2. Swimming facilities must be inspected by the principal and teacher before the trip is scheduled.

**SCHOOL-SPONSORED TRIPS** (continued)

Owners of private pools must provide a certificate of insurance, designating the district as an additional insured, for not less than $1,000,000 (One Million dollars) in liability coverage.

3. Lifeguards must be designated for all swimming activities. If lifeguards are not provided by the pool owner or operator, the principal shall ensure their presence. Lifeguards must be Red Cross certified or equivalent and must be at least 21 years old.

6. The ratio of adult chaperones to students for swimming activities shall be at least one to ten for grades 8-12. In grades 4-7, this ratio shall be one to eight. In grades K-3, this ratio shall be one to four.
7. Specific supervisory responsibilities shall be determined in advance to accommodate the varying swimming abilities of students. These responsibilities shall be clarified in writing and reviewed verbally before the trip.
8. Emergency procedures shall be included with written instructions to adult chaperones and staff.
9. Staff and chaperones assigned to supervise students must wear swimsuits and know how to swim.
10. The principal may require students to wear flotation devices, depending upon their age and swimming ability.
11. A buddy-system or other means of surveillance shall be arranged in advance and strictly enforced during swimming activities.

**SCHOOL-SPONSORED TRIPS**

San Leandro Unified School District

**BOARD OF EDUCATION POLICIES REGARDING FIELD TRIPS**

1. One-day trips: The approval is given by the school administrator or Principals' Cabinet prior to the trip. The necessary information must be submitted at least **two weeks prior** to the trip.

2. In-state, overnight trips: Approval must be given first by the principal, then by the Assistant Superintendent of Education Services. All information must be submitted to the district at least **four weeks prior** to the actual trip so that approval can be obtained.

3. Out-of-state, overnight trips: Approval must be obtained from the Board of Education. In order to obtain approval for trips in this category, all information must be submitted three months prior to the trip. **NO EXCEPTIONS CAN BE MADE TO THIS PROVISION.**

4. Trips which include swimming or wading:
Approval must be obtained by the Superintendent or Assistant Superintendent of Educational Services. All information must be submitted at least **four weeks prior** to the actual trip. Parent/legal guardian must provide written permission for the student to swim and must indicate the student's swimming ability.

San Leandro Unified School District

**PARENT/LEGAL GUARDIAN PERMISSION FOR STUDENT PARTICIPATION IN OFF-CAMPUS SCHOOL-SPONSORED EVENTS**

_____has my permission to attend_____
(Name of Student) (activity/event)

which will take place at:_____

Date of event: _____ Class or group attending: _____

Teacher or leader:_____

Method of transportation:_____

If traveling by automobile/van; name of driver:_____

1. I understand that all students going on this trip will be responsible in conduct to the bus driver, to teachers or adult sponsors. It is further understood that students will go and return from the event on the transportation provided and that every reasonable caution will be maintained on the trip.

2. I hereby acknowledge that I have been advised that the activities involved in this excursion/field trip or event are _____ are not_____ considered by the district to be of "high risk" to the participants.

3. I further understand that this is a voluntary activity and if I choose not to have my student participate, he/she will be provided with alternative instruction during the regular school hours.

_____ _____
(Date) (Parent or Legal Guardian Signature)

---

**WAIVER OF CLAIM**
**(To be Completed for Out-of-State Events Only)**

In granting permission to attend, I do hereby waive all claims and hold harmless the individual sponsors, the San Leandro Unified School District, and the State of California for any injury, accident, illness, death, or any loss or damage to personal property occurring during or by reason of this excursion/field trip or event.

_____ _____
(Date) (Parent or Legal Guardian Signature)

San Leandro Unified School District
**FIELD TRIP PERMISSION FORM**

School Name: _____ Room #_____

Date: _____

Dear Parent/Legal Guardian:

Our class will be going on a field trip to _____

on _____. Each child will need to bring the following:

_____

_____

Please be sure your child is dressed appropriately. Your child should wear comfortable walking shoes (no sandals or open shoes).

Please check the appropriate box below, sign and return this form. Your child will not be allowed to participate unless this form is completed and returned prior to the field trip.

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

Tear off and return bottom portion

☐ Yes, _____ has my permission to go on the field trip.

Student Name

☐ No, _____ may not go on the field trip.

Student Name

I am available to chaperone, please call me at _____

Daytime telephone number

*Parent/Legal Guardian Signature* _____ *Date:* _____

Teacher Name _____ Room #_____

San Leandro Unified School District
**STUDY/FIELD TRIP APPROVAL FORM**

Name of School: _____ Date: _____

_____ Number of students: (males) _____(females)_____
*Name of Group*

Teacher(s):_____ Classes taken: Periods 1, 2, 3, 4, 5, 6
(if applicable) (circle)

_____Substitute need for: 1, 2, 3, 4, 5, 6
(if applicable) (circle)

Destination (Location): _____

Address: _____

Dates of Trip: Leave School:_____Time: _____

Return to School:_____Time: _____

Purpose of Trip: _____

Chaperones Names: (males) _____

Chaperones Names: (females) _____

Types of transportation: ***(Appropriate forms must be completed.)***
Charter Bus: _____ Cost: _____
**(See Business Services for current approved listing)**

Private Car: _____ (*Students must have parent permission to drive and are not to drive outside the immediate area.)* **Insurance form needed**

Other: _____ Note Specifics: _____

All anticipated absence forms (if necessary), parent approval forms, medical forms, emergency phone numbers and other appropriate information must be submitted to the office of the Principal prior to departure.

Approval: _____ Date: _____
*Signature of Principal*

**For Overnight Trips Only:**

_____ Date:_____

*Signature of Superintendent or designee*

Board Approval Date: _____(If Applicable). If request is denied, reason(s) for denial: _____

***E(4a) 6153 Study/Field Trip Checklist must accompany this form]***

San Leandro Unified School District
**STUDY/FIELD TRIP CHECKLIST**

***(Must be submitted with Study/Field Trip Approval Form E(4) 6153)***

Name of School: _____ Name of Group: _____

Contact Person: _____ Phone # _____

Date of Trip: _____ Location of Trip_____

Please check the following requirements completed for which you are responsible to ensure students and staff a safe study/field trip:

- ☐ Arranged for substitutes (if applicable)

  If sub required, how will cost be covered? _____
- ☐ Volunteer Requirements met
- ☐ Funding for trip
- ☐ Transportation
- ☐ Proof of Insurance for transportation
- ☐ Certificate of Insurance/Proof of Liability (for SLUSD or Organization) if required
- ☐ Required Chaperone Ratio (male and female)
- ☐ Signed Permission Slips
- ☐ Sleeping Arrangements (overnight/out-of-state trips):

  Type: _____

*FOR SCHOOL USE ONLY*

Authorized by responsible school official.

Approved by: _____

Date: _____



San Leandro Unified School District

**TRANSPORTATION OF STUDENTS IN PRIVATELY OWNED VEHICLES**
**CERTIFICATE AND AUTHORIZATION**

I have agreed to use my private automobile for transporting students to school-related activities. I certify that I possess a valid California Driver's License and that I have presently in force automobile liability coverage. I also accept the terms of the Indemnity Provision stated below

School: _____ Driving for: _____ Date(s) _____
(Teacher/Program)
Name of Driver:_____Driver's License No. _____

Address of Driver: _____ Home Phone No. _____

Make of automobile:_____ Year/Model/Style: _____
Automobile License No. _____
Name of Insurance Company/Policy No. _____
***(proof of insurance must be presented with this form)***

*SEAT BELTS REQUIRED TO BE USED BY ALL OCCUPANTS*

I have met the minimum insurance requirements per occurrence as listed below or have umbrella coverage of at least $500,000:
Bodily Injury Liability:

| | |
|---|---|
| Each Individual | $100,000 |
| Total Each Accident | $300,000 |
| Property Damage Liability: | |
| Total Each Accident | $ 25,000 |
| Medical Payments: | |
| Each Individual | $ 5,000 |
| Uninsured Motorist Coverage: | |
| Each Individual | $100,000 |
| Total Each Accident | $300,000 |

**Drivers should be aware that although there is a liability insurance policy in the District, it is the individual driver's own auto liability insurance that must provide the coverage in case of an accident. See Insurance Code 11580.1. In the event of an accident, the driver shall notify a school official and complete a District accident form.**

INDEMNITY PROVISION*

* Student Drivers shall not transport other students on authorized field trips.
* The Driver agrees and accepts his/her obligation to operate, manage and control his/her vehicle in a safe and lawful manner while transporting students pursuant to this Certificate and Authorization.
* The Driver further agrees to DEFEND AND INDEMNIFY The San Leandro Unified School District from any claim, action or lawsuit brought by anyone which arises out of, or is in any way connected to the operation of the vehicle pursuant to this Certificate and Authorization.

_____ _____
Signature of Driver Date

*DISTRIBUTION: Original – Driver Second copy – School Third copy – Business Office*

**Homework Policy and Guidelines**

The Board of Education recognizes the need for homework to develop independent study habits and to reinforce grade level learning standards. Homework is intended to be a valuable extension of student learning time. Homework will be assigned to students for any of the following reasons:

1. (a) Support of the day's lesson;
2. (b) Completion of unfinished assignments;
3. (c) Practice and review for better understanding;
4. (d) Enrichment; and
5. (e) Involvement of parents/legal guardians in students' learning and academic progress.

Teacher's Responsibility
It is the responsibility of the teacher to inform parents/legal guardians and students, verbally and in writing, of homework expectations; to assign homework that is related to current instruction; to assign work that encourages student responsibility; to review homework in a timely manner that promotes student learning; and to inform students of the effect homework will have on grades earned. Homework expectations will be explained to students in class and communicated to parents/legal guardians at the start of the school year as well as at Back to School Night in the fall.

*(cf. 5145.6 – Parental Notifications)*

Site Administrator Responsibility
Site Leadership, with the help of staff, shall explain the district's homework guidelines to parents/legal guardians and the community. Site Leadership will work with staff to ensure that the homework policy and guidelines are implemented for student success and in a way that students do not receive inordinate amounts of homework on any one day.

Student Responsibility
It is the responsibility of the student to perform the tasks assigned by the teacher and submit assignments in the manner and time required. Students are responsible for requesting additional clarification of homework if needed. When a student is absent, the student should make up assignments missed in the time agreed to with the teacher(s.) Homework not completed may affect the grade received for the marking period.

*(cf. 5113- Absences and Excuses)*

**Homework Policy and Guidelines (continued)**

Parent/Legal Guardian Responsibility
Parents/legal guardians should make every effort to support their student

by:

1. providing appropriate time and place for study
2. providing support and encouragement for student to complete

   homework

3. monitoring the completion and follow through of their student's

   homework assignments

4. providing time for reading daily at home
5. ensuring make up assignments are completed in the time agreed to by

   teachers

6. contacting your child's teacher if you have concerns

Procedures
These procedures shall be adhered to when assigning homework:

1. Directions for completing the assignment should be made clear to the student.
2. Long-term assignments such as reports and research projects may be assigned in addition to the regular homework assignments. Teachers shall make periodic checks of student progress during long-term assignments.
3. Students who miss school work because of an *excused absence* shall be given the opportunity to complete all assignments and tests that can be reasonably provided. As determined by the teacher, the assignments and tests shall be reasonably equivalent to, but not necessarily identical to, the assignments and tests missed during the absence. (Students shall receive full credit for work satisfactorily completed within a reasonable period of time.) (Ed Code 48205). Students who miss school work because of *unexcused absences* may be given the opportunity to make up missed work for full or reduced credit. Teachers shall assign such makeup work as necessary to ensure academic progress, not as a punitive measure.
4. The following time guidelines recognize that:
   - Individual students complete work at different rates;
   - It is expected that the degree of difficulty in assignments will

**Homework Policy and Guidelines (continued)**

increase with the grade level/course content and the maturity of the student;

- Homework will reflect the accommodations and modifications of

curriculum that is stated in a student's Individualized Education Program (IEP) or Section 504 plan;

- Homework is to be reviewed and progress communicated to students and parents in a meaningful and timely manner.
- Homework assignments shall be reasonable in length and appropriate to grade/course level;
- Reading daily at home is expected as a way of promoting lifelong readers
- Projects and activities may be included. The following list the time guidelines by grade level:

**Kindergarten – Grade 3:**

Homework will be assigned Monday through Thursday and not on Fridays and during breaks as a regular practice. Reading at home is expected in addition to the approximate time guidelines below:

- Kindergarten: 10 – 15 minutes.
- Grade 1: 15-20 minutes
- Grade 2: 20-25 minutes
- Grade 3: 25-30 minutes

**Grade 4 – Grade 5:**

Homework is assigned Monday through Thursday and on Fridays/breaks as needed, but not to exceed the following approximate daily time guidelines. Reading at home is expected in addition to these guidelines.

- Grade 4: 40-45 minutes
- Grade 5: 50-55 minutes

**Grade 6 – 8:**

Homework is assigned Monday through Thursday and on Fridays/breaks as needed, but not to exceed the following approximate daily time guidelines. Reading at home is expected in addition to these guidelines.

- In grade six, homework for each academic class will average 60 minutes weekly.
- In grades seventh through eighth, homework for each academic class will average 60 to 90 minutes weekly.
- Support classes such as companion courses and other specialized courses may have different homework requirements as described in the course descriptions.

Grades 9-12:

Homework is assigned Monday through Thursday and on Fridays/breaks as needed, but not to exceed the following approximate daily time guidelines. Reading at home is expected in addition to these guidelines.

• In grades nine through twelve, homework for each academic class will average 150 minutes weekly.

**Homework Policy and Guidelines (continued)**

- Support classes such as companion courses and other specialized courses may have different homework requirements as described in the course descriptions.
- Advanced courses (such as Honors, Advanced Placement (AP), etc.) will require additional homework.

*Legal References:*

*(cf. 5113 – Absences and Excuses)*
*(cf. 5145.6 – Parental Notifications)*
*(cf. 6020 – Parent Involvement)*
*(cf. 6164.4 – Identification of Individuals for Special Education) (cf. 6164.6 – Identification and Education under Section 504)*

Policy SAN LEANDRO UNIFIED SCHOOL DISTRICT revision adopted: November 19, 1991 San Leandro, California revision adopted: June 5, 2012

## CHALLENGING COURSES BY EXAMINATION

The Governing Board recognizes that there is a need to allow high school students to challenge a given course by examination for grade and credit in order to accelerate progress towards graduation and to achieve more flexibility in the selection of electives. This opportunity will permit a student to enroll in courses best suited to his/her educational objectives.

The examination shall be comprehensive and cover all course objectives. Successful completion of the examination shall be at a level which indicates mastery of the content and/or reasonable chance for success in the next higher course.

*(cf. 5121 - Grades/Evaluation of Student Achievement)*
*(cf. 6011 - Academic Standards)*
*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - High School Graduation Requirements)*
*(cf. 6162.5 - Student Assessment)*

*Legal Reference:*
*EDUCATION CODE*
*51225.3 Requirements for graduation*
*64001 Single plan for student achievement*

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## CHALLENGING COURSES BY EXAMINATION

### Petition to Challenge Course

One month prior to the end of the current semester, currently enrolled students interested in challenging a course shall file a petition form with their counselor. Entering ninth-grade students and new enrollees shall file a petition and take the examination within two weeks of the time of initial entry to high school classes.

The counselor shall inform the course instructor of the student's intent to challenge the course. The student may be allowed to challenge the course by examination if his/her petition is signed by the counselor, department chair and parent/guardian. The student's petition shall include, but not be limited to, the following:

1. Grades in courses of the subject area of the challenge

2. Recommendations from the teacher

3. Substitute courses to be taken by the student

4. Student's rationale or reasons for challenging a specific course

The challenge examination may be offered when the course is part of a sequence of courses normally taken in specific order or when the course is normally required for entry into another course.

1. During their enrollment in high school, students may challenge no more than four courses which meet graduation requirements. While successful challenge will exempt a student from those specific courses required for graduation, the student is still responsible for the total units required for graduation.

*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - High School Graduation Requirements)*

2. A student may challenge a particular course only once.

3. A student may challenge only one course per semester. This may be a course in which the student is enrolled or any other approved course offering.

4. A student may not attempt credit for a course below his/her ability or grade placement.

### Test Content and Administration

The principal and department chairpersons shall collaborate with teachers in the development of appropriate districtwide testing procedures and materials for the classes that may be challenged within each department. Departmentally-developed performance objectives shall determine the content and the type of evaluation to be used. The examination may be written, oral, by demonstration or any combination thereof.

The type of test administered shall depend on the course outline. The department chairperson or designee shall supervise the administration and evaluation of tests pertaining to the department.

The student must earn an A or B to receive credit for challenging a course by examination. The transcript shall reflect that the grade was earned by challenge.

**INDEPENDENT STUDY**

The Governing Board authorizes independent study as an optional alternative instructional strategy for eligible students whose needs may be best met through study outside of the regular classroom setting. Independent study shall offer a means of individualizing the educational plan and enabling students to reach curriculum objectives and fulfill graduation requirements. As necessary to meet student needs, independent study may be offered on a full-time basis or on a part-time basis in conjunction with part- or full-time classroom study.

*(cf. 0420.4 - Charter Schools)*
*(cf. 6011 - Academic Standards)*
*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - High School Graduation Requirements)*
*(cf. 6181 - Alternative Schools/Programs of Choice)*
*(cf. 6200 - Adult Education)*

A student's participation in independent study shall be voluntary. Students participating in independent study shall have the right, at any time, to enter or return to the regular classroom mode of instruction. (Education Code 51747; 5 CCR 11700)

Parents/guardians of students who are interested in independent study shall contact the Superintendent or designee. The Superintendent or designee shall approve independent study for an individual student only upon determining that the student is prepared to meet the district's requirements for independent study and is likely to succeed in independent study as well as or better than he/she would in the regular classroom.

The minimum period of time for any independent study option shall be five consecutive school days.

The Superintendent or designee shall ensure that a written independent study agreement, as prescribed by law, exists for each participating student. (Education Code 51747)
The written agreement shall specify the length of time in which each independent study assignment must be completed. Excessive leniency in the duration of independent study assignments may result in a student falling behind his/her peers and increase the risk of dropping out of school. To foster each participating student's success in independent study, the Board establishes the following maximum lengths of time which may elapse between the date an assignment is made and the date by which the student must complete the assigned work:

1. Ten (10) school days for students in grades K-3
2. Ten (10 school days for students in grades 4-8
3. Fifteen (15) school days for students in grades 9-12, continuation or adult education

However, when necessary based on the specific circumstances of the student's approved program, the Superintendent or designee may allow for a longer period of time between the date an assignment is made and when it is due, up to the termination date of the agreement.

**INDEPENDENT STUDY** (continued)

When a participating student misses three assignments, an evaluation shall be conducted to determine whether it is in the student's best interest to remain in independent study. However, a student's written agreement may specify a lower or higher number of missed assignments that will trigger an evaluation when the Superintendent or designee determines it appropriate based on the nature of the assignments, the total number of assignments, and/or other unique circumstances.

Supervising teachers should establish an appropriate schedule for student-teacher conferences in order to help identify students falling behind in their work or in danger of failing or dropping out of school. Except in unusual circumstances, it is expected that the supervising teacher will meet, either in person or by electronic means, with each participating student at least once a week to discuss the student's progress.

*(cf. 5147 - Dropout Prevention)*

Missing appointments with the supervising teacher without valid reasons also may trigger an evaluation to determine whether the student should remain in independent study.

The Superintendent or designee shall annually report to the Board the number of students participating in independent study, the average daily attendance generated for apportionment purposes, the quality of these students' work as measured by standard indicators, and the number and proportion of independent study students who graduate or successfully complete independent study. Based on the program evaluation, the Board and Superintendent shall determine areas for program improvement as needed.

*(cf. 0500 - Accountability)*
*(cf. 5121 - Grades/Evaluation of Student Achievement)*
*(cf. 6162.5 - Student Assessment)*

**Home-Based Independent Study**

The Superintendent or designee shall encourage parents/guardians desiring to teach their children at home to have their children participate in independent study. Such participation allows continued contact and cooperation between the school system and the home-based student and ensures that the student will be offered a standards-based education substantially equivalent in quality and quantity to the district's classroom instruction.

*Legal Reference:*

*EDUCATION CODE*
*17289 Exemption for facilities*
*41976.2 Independent study programs; adult education funding*
*42238 Revenue limits*
*44865 Qualifications for home teachers and teachers in special classes and schools*
*46300-46307.1 Methods of computing average daily attendance*
*47612.5 Independent study in charter schools*
*48204 Residency based on parent employment*
*48206.3 Home or hospital instruction; students with temporary disabilities*
*48220 Classes of children exempted*
*48340 Improvement of pupil attendance*
*48915 Expulsion; particular circumstances*
*48916.1 Educational program requirements for expelled students*
*48917 Suspension of expulsion order*
*51225.3 Requirements for high school graduation*
*51745-51749.3 Independent study programs*
*52206 Gifted and talented education; use of independent study to augment program*

**INDEPENDENT STUDY** (continued)

*52522 Adult education alternative instructional delivery*
*52523 Adult education as supplement to high school curriculum; criteria*
*56026 Individuals with exceptional needs*
*58500-58512 Alternative schools and programs of choice*
*FAMILY CODE*
*6550 Authorization affidavits*
*CODE OF REGULATIONS, TITLE 5*
*11700-11703 Independent study*
*19819 State audit compliance*
*COURT DECISIONS*
*Modesto City Schools v. Education Audits Appeal Panel, (2004) 123 Cal.App.4th 1365*
*EDUCATION AUDIT APPEALS PANEL DECISIONS*
*Lucerne Valley Unified School District, Case No. 03-02 (2005)*

*Management Resources:*
*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Independent Study Operations Manual, 2000 Edition*
*Elements of Exemplary Independent Study*
*Approaches to Satisfying No Child Left Behind Act of 2001 Teacher Requirements for Independent Study in Secondary Schools, January 28, 2010*
*WEB SITES*
*California Consortium for Independent Study: http://www.ccis.org*
*California Department of Education, Independent Study: http://www.cde.ca.gov/sp/eo/is*
*Education Audit Appeals Panel: http://www.eaap.ca.gov*

# INDEPENDENT STUDY

## Educational Opportunities

Educational opportunities offered through independent study may include, but are not limited to: (Education Code 51745)

1. Special assignments extending the content of regular courses of instruction

*(cf. 6143 - Courses of Study)*

2. Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum

3. Individualized alternative education designed to teach the knowledge and skills of the core curriculum, but not provided as an alternative curriculum

4. Continuing and special study during travel

*(cf. 5112.3 - Student Leave of Absence)*

5. Volunteer community service activities that support and strengthen student achievement

*(cf. 0420.4 - Charter Schools)*
*(cf. 6142.4 - Service Learning/Community Service Classes)*
*(cf. 6181 - Alternative Schools/Programs of Choice)*

In addition, when requested by a parent/guardian due to an emergency, vacation, or illness, independent study may be used on a short-term basis to ensure that the student is able to maintain academic progress in his/her regular classes.

*(cf. 5113 - Absences and Excuses)*

No course required for high school graduation shall be offered exclusively through independent study. (Education Code 51745)

*(cf. 6146.1 - High School Graduation Requirements)*

## Equivalency

The district's independent study option shall be substantially equivalent in quality and quantity to classroom instruction to enable participating students to complete the district's adopted course of study within the customary time frame. Students in independent study shall have access to the same services and resources that are available to other students in the school and shall have equal rights and privileges. (5 CCR 11700, 11701.5)

**INDEPENDENT STUDY** (continued)

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

The district shall not provide independent study students and their parents/guardians with funds or items of value that are not provided for other students and their parents/guardians. (Education Code 46300.6, 51747.3)

**Eligibility for Independent Study**

Provided that experienced certificated staff are available to effectively supervise students in independent study, the Superintendent or designee may approve the participation of a student who demonstrates the motivation, commitment, organizational skills, and academic skills necessary to work independently. A student whose academic performance is not at grade level may participate in independent study only if the school is able to provide appropriate support, such as supplemental instruction, tutoring, counseling, ongoing diagnostic assessments, and/or differentiated materials, to enable the student to be successful. For an elementary student, the Superintendent or designee may consider the parent/guardian's level of commitment to assist the student.

A student participating in independent study must be a resident of the county or an adjacent county. Full-time independent study shall not be available to students whose district residency status is based on their parent/guardian's employment within district boundaries pursuant to Education Code 48204. (Education Code 46300.2, 51747.3)

*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*

For a student with disabilities, as defined in Education Code 56026, participation in independent study shall be approved only if his/her individualized education program specifically provides for such participation. (Education Code 51745)

*(cf. 6159 - Individualized Education Program)*

A temporarily disabled student shall not receive individual instruction pursuant to Education Code 48206.3 by means of independent study. (Education Code 51745)

*(cf. 6183 - Home and Hospital Instruction)*

Students age 21 or older, and students age 19 or older who have not been continuously enrolled in school since their 18th birthday, may participate in independent study only through the adult education program for the purpose of enrolling in courses required for a high school diploma by Education Code 51225.3 or the Governing Board. (Education Code 46300.1, 46300.4)

*(cf. 6200 - Adult Education)*

**INDEPENDENT STUDY** (continued)

No more than 10 percent of the students enrolled in a continuation high school or opportunity school or program, not including pregnant and parenting students who are primary caregivers for one or more of their children, shall be eligible for apportionment credit for independent study. (Education Code 51745)

*(cf. 5146 - Married/Pregnant/Parenting Students)*
*(cf. 6184 - Continuation Education)*

**Written Agreements**

A written agreement shall be developed and implemented for each student participating in independent study for five or more consecutive school days. (Education Code 46300, 51747)

The agreement shall include general student data, including the student's name, address, grade level, birth date, school of enrollment, and program placement.

The independent study agreement for each participating student also shall include, but not be limited to, all of the following: (Education Code 51747; 5 CCR 11700)

1. The manner, time, frequency, and place for submitting the student's assignments and for reporting his/her progress

2. The objectives and methods of study for the student's work and the methods used to evaluate that work

3. The specific resources, including materials and personnel, that will be made available to the student

4. A statement of the Board's policy detailing the maximum length of time allowed between an assignment and its completion and the number of missed assignments which will trigger an evaluation of whether the student should be allowed to continue in independent study

5. The duration of the independent study agreement, including the beginning and ending dates for the student's participation in independent study under the agreement, with a maximum of one semester or one-half year if the school is on a year-round calendar

6. A statement of the number of course credits or, for an elementary student, other measures of academic accomplishment appropriate to the agreement, to be earned by the student upon completion

7. A statement that independent study is an optional educational alternative in which no student may be required to participate

**INDEPENDENT STUDY** (continued)

8. In the case of a suspended or expelled student who is referred or assigned to any school, class, or program pursuant to Education Code 48915 or 48917, a statement that instruction may be provided through independent study only if the student is offered the alternative of classroom instruction

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

Before the student begins the independent study, the written agreement shall be signed and dated by the student, the parent/guardian or caregiver of the student if the student is under age 18, the certificated employee responsible for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the student. (Education Code 51747; 5 CCR 11702)

**Monitoring Student Progress**

Independent study students who are late, miss scheduled conferences, or do not submit assigned work on time shall not be reported as tardy or truant.

However, the independent study administrator and/or supervising teacher shall promptly and directly address any failure by the student to meet the terms of his/her written agreement. The following supportive strategies may be used:

1. A letter to the student and/or parent/guardian

2. A meeting between the student and the teacher and/or counselor

3. A meeting between the student and the independent study administrator, including the parent/guardian if appropriate

4. An increase in the amount of time the student works under direct supervision

When the student has missed the number of assignments specified in the written agreement as precipitating an evaluation, the Superintendent or designee shall conduct an evaluation to determine whether or not independent study is appropriate for the student. This evaluation may result in termination of the independent study agreement and the student's return to a regular school program.

**Responsibilities of Independent Study Administrator**

The responsibilities of the independent study administrator shall be to:

1. Ensure that the district's independent study option is operated in accordance with law, Board policy, and administrative regulation and is substantially equal in quality and quantity to the classroom instruction

2. Obtain and maintain current information and skills required for the operation of an independent study program that meets established standards for the district's educational programs

3. Develop and manage the budget for independent study

4. Authorize the selection of certificated staff to be assigned as independent study teachers

5. Supervise any staff assigned to independent study functions who are not regularly supervised by another administrator

**INDEPENDENT STUDY** (continued)

6. Approve or deny the participation of students requesting independent study

7. Facilitate the completion of written independent study agreements

8. Assure a smooth transition for students into and out of the independent study mode of instruction

9. Approve all credits earned through independent study and forward the information to the appropriate staff so that the information becomes part of the student's record

10. Complete or coordinate the preparation of all records and reports required by law, Board policy, or administrative regulation

**Assignment and Responsibilities of Independent Study Teachers**

Each student's independent study shall be coordinated, evaluated, and carried out under the general supervision of a certificated employee who consents to the assignment. (Education Code 44865, 51747.5; 5 CCR 11700)

*(cf. 4112.2 - Certification)*
*(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind)*

The principal and independent study administrator may recommend and the Superintendent shall approve the assignment of teachers to directly supervise independent study and/or work with students on specific subject matter. The Superintendent or designee shall ensure that independent study teachers have access to professional development and support comparable to classroom-based teachers.

*(cf. 4131 - Staff Development)*
The ratio of student average daily attendance to full-time equivalent certificated employees responsible for independent study shall not exceed the equivalent ratio for all other education programs in the district. (Education Code 51745.6)

The responsibilities of the supervising teacher shall be to:

1. Complete designated portions of the written independent study agreement and add additional information to the written agreement when appropriate

2. Supervise and approve coursework

3. Design lesson plans and make assignments

4. Maintain records of student assignments showing the date the assignment is given and the date the assignment is due

5. Provide direct instruction and counsel as necessary for individual student success

6. Regularly meet with the student to discuss the student's progress

7. Judge the time value of assigned work or work products completed and submitted by the student

8. Assess student work and determine and assign grades or other approved measures of achievement

**INDEPENDENT STUDY** (continued)

9. Select and save representative samples of the student's completed and evaluated assignments for each subject, signed or initialed and dated in accordance with item #3 in the section on "Records" below

10. Maintain a daily or hourly attendance register in accordance with item #4 in the section on "Records" below

11. Maintain any other required records and files on a current basis

**Records**

The Superintendent or designee shall ensure that records are maintained for audit purposes. These records shall include, but not be limited to: (Education Code 51748; 5 CCR 11703)

1. A copy of the Board policy, administrative regulation, and other procedures related to independent study.

2. A separate listing of the students, by grade level, program, and school, who have participated in independent study. This listing shall identify units of the curriculum attempted and units of the curriculum completed by students in grades K-8 and identify course credits attempted by and awarded to students in grades 9-12 and in adult education, as specified in their written agreements.

3. A file of all agreements, with representative samples of each student's work products bearing the supervising teacher's signed or initialed and dated notations indicating that he/she has personally evaluated the work or that he/she has personally reviewed the evaluations made by another certificated teacher.

4. A daily or hourly attendance register, as appropriate to the program in which the students are participating, separate from classroom attendance records, and maintained on a current basis as time values of student work products judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons.

*(cf. 3580 - District Records)*

The above records shall be maintained for three years, excluding the current fiscal year.

The Superintendent or designee also shall maintain a record of grades and other evaluations issued to each student for independent study assignments.

Each school shall maintain records for the students at that school.

A written record of the findings of any evaluation conducted after the student has missed the number of assignments specified in Board policy shall be treated as a mandatory interim student record which shall be maintained for three years from the date of the evaluation. (Education Code 51747)

*(cf. 5125 - Student Records)*

**INDIVIDUALIZED EDUCATION PROGRAM**

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

*(cf. 0430 - Comprehensive Local Plan for Special Education)*
*(cf. 1312.3 - Uniform Complaint Procedures)*
*(cf. 3541.2 - Transportation for Students with Disabilities)*
*(cf. 4112.23 - Special Education Staff)*
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*
*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*
*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*
*(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)*
*(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)*
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*
*(cf. 6164.6 - Identification and Education Under Section 504)*

The Superintendent or designee shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

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

*Legal Reference:*

*EDUCATION CODE*
*51225.3 Requirements for high school graduation and diploma*
*56055 Rights of foster parents pertaining to foster child's education*
*56136 Guidelines for low incidence disabilities areas*
*56195.8 Adoption of policies*
*56321 Development or revision of IEP*
*56321.5 Notice to include right to electronically record*
*56340.1-56347 Instructional planning and individualized education program*
*56350-56352 IEP for visually impaired students*
*56380 IEP reviews; notice of right to request*
*56390-56392 Certificate of completion, special education*
*56500-56509 Procedural safeguards*
*60640-60649 California Assessment of Student Performance and Progress*
*60850 High school exit examination, students with disabilities*
*60852.3 High school exit examination, exemption for the class of 2006*

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

*FAMILY CODE*
*6500-6502 Age of majority*
*GOVERNMENT CODE*
*7572.5 Seriously emotionally disturbed child, expanded IEP team*
*WELFARE AND INSTITUTIONS CODE*
*300 Children subject to jurisdiction*
*601 Minors habitually disobedient*
*602 Minors violating law defined as crime*
*CODE OF REGULATIONS, TITLE 5*
*853-853.5 State assessments, accommodations*
*1215.5-1218 High School Exit Examination, accommodations for students with disabilities*
*3021-3029 Identification, referral and assessment*
*3040-3043 Instructional planning and the individualized education program*
*UNITED STATES CODE, TITLE 20*
*1232g Family Educational Rights and Privacy Act of 1974*
*1400-1482 Individuals with Disabilities Education Act*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*300.1-300.818 Individuals with Disabilities Education Act*
*COURT DECISIONS*
*Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 627 F.3d 773*
*Schaffer v. Weast (2005) 125 S. Ct. 528*
*Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072*
*Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398*
*ATTORNEY GENERAL OPINIONS*
*85 Ops.Cal.Atty.Gen. 157 (2002)*

*Management Resources:*
*FEDERAL REGISTER*
*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*
*WEB SITES*
*California Department of Education: http://www.cde.ca.gov*
*U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/offices/list/osers/osep*

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## INDIVIDUALIZED EDUCATION PROGRAM

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 34 CFR 300.323)

### Members of the IEP Team

The IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them

2. If the student is or may be participating in the regular education program, at least one of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers

   The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414(d)(3)(C); 34 CFR 300.324)

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

3. At least one of the student's special education teachers or, where appropriate, special education providers

4. A representative of the district who is:

   a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities

   b. Knowledgeable about the general education curriculum

   c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources

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

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

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

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

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

7. Whenever appropriate, the student with a disability

   In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher

   In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)

2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)

   a. The student, regardless of his/her age

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

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

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

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education
or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C); 34 CFR 300.321)

**Contents of the IEP**

The IEP shall include, but not be limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

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

   a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)

   b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities

   c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

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

   a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum

   b. Meet each of the student's other educational needs that result from his/her disability

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

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:

   a. Advance appropriately toward attaining the annual goals

   b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities

   c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP

*(cf. 3541.2 - Transportation for Students with Disabilities)*

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP

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

   If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*
*(cf. 6162.51 - State Academic Achievement Tests)*
*(cf. 6162.52 - High School Exit Examination)*

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:

   a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills

   b. The transition services, including courses of study, needed to assist the student in reaching those goals

9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

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

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

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

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English

*(cf. 6174 - Education for English Language Learners)*

3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)

*(cf. 5148.2 - Before/After School Programs)*
*(cf. 6177 - Summer School)*

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

   a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week

   b. Support the transition of the student from the special education program into the regular education program

*(cf. 6176 - Weekend/Saturday Classes)*
*(cf. 6178 - Career Technical Education)*
*(cf. 6181 - Alternative Schools/Programs of Choice)*

5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

**Development of the IEP**

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56341.1, 56345; 20 USC 1414(d)(3)(A); 34 CFR 300.324)

1. The strengths of the student

2. The concerns of the parents/guardians for enhancing the education of their child

3. The results of the initial or most recent assessment of the student

4. The academic, developmental, and functional needs of the student

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior

6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP

7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

   However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

   The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

**Provision of Special Education and Related Services**

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

**Review and Revision of the IEP**

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414(d)(4); 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved

2. Revise the IEP, as appropriate, to address:

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate

b. The results of any reassessment conducted pursuant to Education Code 56381

c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305(a)(2) and Education Code 56381(b)

d. The student's anticipated needs

e. Any other relevant matter

3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

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

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414(d); 34 CFR 300.324)

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

*(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)*
*(cf. 6173.1 - Education for Foster Youth)*

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of the case progress, the continuing need for out-of-home placement, the extent of compliance with the IEP, and progress toward alleviating the need for out-of-home care. (Education Code 56043)

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

**Audio Recording of IEP Team Meetings**

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because

the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings

2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights

3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

**Parent/Guardian Participation and Other Rights**

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

2. Indicate who will be in attendance at the meeting

3. Inform them of:

   a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)

   b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)

2. An indication that the student is invited to the IEP team meeting

3. Identification of any other agency that will be invited to send a representative

*(cf. 5145.6 - Parental Notifications)*

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

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

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

*(cf. 5125 - Student Records)*

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414(f); 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls

2. Copies of correspondence sent to the parent/guardian and any responses received

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

**Parent/Guardian Consent for Provision of Special Education and Services**

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a

due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

**INDIVIDUALIZED EDUCATION PROGRAM** (continued)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

**Transfer Students**

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the

Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION**

The Governing Board desires to protect the rights of students with disabilities in accordance with the procedural safeguards set forth in state and federal law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*
*(cf. 5145.6 - Parental Notifications)*
*(cf. 6159 - Individualized Education Program)*
*(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education Students)*
*(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)*
*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

The Superintendent or designee shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures.

*(cf. 1312.3 - Uniform Complaint Procedures)*

*Legal Reference:*

*EDUCATION CODE*
*56000 Education for individuals with disabilities*
*56001 Provision of the special education programs*
*56020-56035 Definitions*
*56195.7 Written agreements*
*56195.8 Adoption of policies for programs and services*
*56300-56385 Identification and referral, assessment*
*56440-56447.1 Programs for individuals between the ages of three and five years*
*56500-56509 Procedural safeguards, including due process rights*
*56600-56606 Evaluation, audits and information*
*CODE OF REGULATIONS, TITLE 5*
*3000-3100 Regulations governing special education*
*4600-4671 Uniform complaint procedures*
*UNITED STATES CODE, TITLE 20*
*1232g Family Educational Rights and Privacy Act*
*1400-1482 Individuals with Disabilities Education Act*
*UNITED STATES CODE, TITLE 29*
*794 Section 504 of the Rehabilitation Act*
*UNITED STATES CODE, TITLE 42*
*11434 Homeless assistance*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*99.10-99.22 Inspection, review and procedures for amending education records*
*104.36 Procedural safeguards*
*300.1-300.818 Assistance to states for the education of students with disabilities, especially:*
*300.500-300.520 Procedural safeguards and due process for parents and students*
*COURT DECISIONS*
*Winkelman v. Parma City School District, (2007) 550 U.S. 516*

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

*Management Resources:*

*FEDERAL REGISTER*
*Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029*
*WEB SITES*
*California Department of Education, Special Education: http://www.cde.ca.gov/sp/se*
*U.S. Department of Education, Office of Special Education Programs:*
*http://www.ed.gov/about/offices/list/osers/osep*

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**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION**

**Prior Written Notice**

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time: (20 USC 1415(c); 34 CFR 300.102, 300.300, 300.503; Education Code 56500.4, 56500.5)

1. Before the district initially refers the student for assessment

2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student

3. Before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement

5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child

This notice shall include: (20 USC 1415(c); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district

2. An explanation as to why the district proposes or refuses to take the action

3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action

4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained

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

6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

*(cf. 6159 - Individualized Education Program)*

7. A description of any other factors relevant to the district's proposal or refusal

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

*(cf. 5145.6 - Parental Notifications)*

**Procedural Safeguards Notice**

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment

2. Upon receipt of the first state compliance complaint in a school year

*(cf. 1312.3 - Uniform Complaint Procedures)*

3. Upon receipt of the first due process hearing request in a school year

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct constituting a change of placement

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

5. Upon request by a parent/guardian

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation

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

2. Prior written notice

3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services

4. Access to educational records

*(cf. 5125 - Student Records)*

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures

6. The availability of mediation

7. The student's placement during the pendency of any due process complaint

8. Procedures for students who are subject to placement in an interim alternative educational setting

9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations

11. State-level appeals

12. Civil actions, including the time period in which to file those actions

13. Attorney's fees

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

**Format of Parent/Guardian Notices**

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

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

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication.

2. The parent/guardian understands the contents of the notice.

3. There is written evidence that items #1 and #2 have been satisfied.

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC 1415(d))

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR 300.505)

**Due Process Complaints**

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415(b); Education Code 56501)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.

2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.

3. The parent/guardian refuses to consent to an assessment of his/her child.

4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415(b); 34 CFR 300.508; Education Code 56502)

1. The student's name

2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student

*(cf. 6173 - Education for Homeless Children)*

3. The name of the school the student attends

4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem

5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

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

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

**District's Response to Due Process Complaints**

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

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

1. An explanation of why the district proposed or refused to take the action raised in the complaint

2. A description of other options that the IEP team considered and the reasons that those options were rejected

3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action

4. A description of the factors that are relevant to the district's proposal or refusal



**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION** (continued)

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

**Informal Process/Pre-Hearing Mediation Conference**

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally

to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

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

# NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

The Governing Board recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs.

*(cf. 0430 - Comprehensive Local Plan for Special Education)*
*(cf. 1312.3 - Uniform Complaint Procedures)*
*(cf. 3541.2 - Transportation for Students with Disabilities)*
*(cf. 4112.23 - Special Education Staff)*
*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 56195.8, 56342.1)

*(cf. 6159 - Individualized Education Program)*
*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

In accordance with Education Code 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, 56366.3, and 56366.6.

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

*(cf. 1431 - Waivers)*

*Legal Reference:*

*EDUCATION CODE*
*56034-56035 Definitions of nonpublic, nonsectarian school and agency*
*56042 Placement not to be recommended by attorney with conflict of interest*
*56101 Waivers*
*56163 Certification*
*56168 Responsibility for education of student in hospital or health facility school*
*56195.8 Adoption of policies*
*56342.1 Individualized education program; placement*
*56360-56369 Implementation of special education*
*56711 Computation of state aid*
*56740-56743 Apportionments and reports*
*56760 Annual budget plan; service proportions*
*56775.5 Reimbursement of assessment and identification costs*
*FAMILY CODE*
*7911-7912 Interstate compact on placement of children*
*GOVERNMENT CODE*
*7570-7587 Interagency responsibilities for providing services to disabled children; especially:*
*7572.55 Seriously emotionally disturbed child; out-of-state placement*
*WELFARE AND INSTITUTIONS CODE*
*362.2 Out-of-home placement for IEP*
*727.1 Out-of-state placement of wards of court*
*CODE OF REGULATIONS, TITLE 5*
*3001 Definitions*
*3060-3070 Nonpublic, nonsectarian school and agency services*
*UNITED STATES CODE, TITLE 20*
*1400-1487 Individuals with Disabilities Education Act*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*300.129-300.148 Children with disabilities in private schools*
*COURT DECISIONS*
*Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997*

*Management Resources:*

*FEDERAL REGISTER*
*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*
*WEB SITES*
*California Department of Education: http://www.cde.ca.gov*
*U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/offices/list/osers*

# NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

## Master Contract

Every master contract with a nonpublic, nonsectarian school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student.

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

*(cf. 3541.2 - Transportation for Students with Disabilities)*
*(cf. 3580 - District Records)*
*(cf. 5125 - Student Records)*
*(cf. 6146.1 - High School Graduation Requirements)*

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)
With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code 56366)

## Placement and Services

The Superintendent or designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

*(cf. 6159 - Individualized Education Program)*

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

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

Prior to the annual review of a student's IEP, the Superintendent or designee shall notify any high school district to which the student may transfer of the student's enrollment in a nonpublic, nonsectarian school or agency. (5 CCR 3069)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

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

**Out-of-State Placements**

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

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

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

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS**

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

*(cf. 0430 - Comprehensive Local Plan for Special Education)*
*(cf. 1312.3 - Uniform Complaint Procedures)*
*(cf. 3515.6 - Criminal Background Checks for Contractors)*
*(cf. 3541.2 - Transportation for Students with Disabilities)*
*(cf. 4112.23 - Special Education Staff)*
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*
*(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)*
*(cf. 6159 - Individualized Education Program)*
*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*
*(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)*
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*
*(cf. 6173 - Education for Homeless Children)*
*(cf. 6173.1 - Education for Foster Youth)*

*Legal Reference:*

*EDUCATION CODE*
*56028 Parent*
*56050 Surrogate parents*
*56055 Rights of foster parents*
*GOVERNMENT CODE*
*7570-7587 Interagency responsibilities for providing services to disabled children, especially:*
*7579.5 Surrogate parent; appointment; qualifications; liability*
*WELFARE AND INSTITUTIONS CODE*
*300 Children subject to jurisdiction*
*361 Limitations on parental control*
*601 Minors habitually disobedient or truant*
*602 Minors violating laws*
*726 Limitations on parental control*
*UNITED STATES CODE, TITLE 20*
*1400-1482 Individuals with Disabilities Education Act, especially:*
*1415 Procedural safeguards*
*UNITED STATES CODE, TITLE 42*
*11434a Definitions*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*300.30 Definition parent*
*300.519 Surrogate parents*

*Management Resources:*

*FEDERAL REGISTER*
*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*
*WEB SITES*
*California Department of Education: http://www.cde.ca.gov*
*U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/offices/list/osers/index.html*

# APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

## Conditions Necessitating a Surrogate

The Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances: (Government Code 7579.5; 20 USC 1415(b)(2); 34 CFR 300.519)

1. No parent/guardian for the student can be identified.

2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.

3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602 and all of the following conditions are satisfied:

   a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)

   b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child

   c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055

*(cf. 6159 - Individualized Education Program)*

4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a

*(cf. 6173 - Education for Homeless Children)*

5. The student has reached the age of majority but has been declared incompetent by a court of law

## Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 USC 1412(b)(2)(B))

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

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS** (continued)

caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

*(cf. 6173.1 - Education for Foster Youth)*

The Superintendent or designee shall ensure that individuals to be appointed as surrogate parents have passed a criminal background check and have demonstrated interest and skill in working with students with disabilities.

Surrogate parents shall have no interests that conflict with the student's educational interests and shall have knowledge and skills that ensure adequate representation of the student. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent. (34 CFR 300.519; Government Code 7579.5)

**Duties of Surrogate Parent**

The surrogate parent shall have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1400-1482 and 34 CFR 300.1-300.818. The surrogate parent may represent the student in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

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

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7587. (Education Code 56050)

*(cf. 5141 - Health Care and Emergencies)*

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

*(cf. 3350 - Travel Expenses)*

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

*(cf. 5125 - Student Records)*

**Termination of Appointment**

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

1. When the student is no longer in need of special education (Government Code 7579.5)

2. When the student reaches 18 years of age, unless he/she chooses not to make education decisions for himself/herself or is deemed by a court to be incompetent (Government Code 7579.5)

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS** (continued)

3. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)

4. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)

5. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above

## BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

Generally, any student identified as a student with a disability pursuant to the Individuals with Disabilities Education Act, 20 USC 1400-1482, is subject to the same disciplinary measures applicable to all students for violations of the code of conduct, except when the student's behavior is determined to be a manifestation of his/her disability.

*(cf. 5131 - Conduct)*
*(cf. 5144 - Discipline)*
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

However, when the behavior of a student with a disability impedes his/her learning or the learning of others, the student's individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior. (Education Code 56521.2; 34 CFR 300.324)

If, pursuant to a manifestation determination conducted as specified in 34 CFR 300.530, the student's behavior is determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the student. If a BIP is already in place for the student, the IEP team shall review and modify the BIP to address the student's behavior. (Education Code 56520; 34 CFR 300.324, 300.530)

In addition, when the disciplinary removal of a student with a disability will result in a change in the student's placement as specified in 34 CFR 300.530, the student shall receive an FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur. (34 CFR 300.530)

### Functional Behavioral Assessment

Prior to providing any behavioral intervention service to a student with a disability, an FBA focusing on identifying the function or purpose of the student's behavior shall be conducted by the student's IEP team.

Before any FBA is conducted, the Superintendent or designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain the parent/guardian's consent. (Education Code 56321; 34 CFR 300.324)

*(cf. 5145.6 - Parental Notifications)*
*(cf. 6159 - Individualized Education Program)*
*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in 34 CFR 300.502.

**BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS**
(continued)

**Behavioral Intervention Plan and Services**

When any behavioral intervention, support, or other strategy is to be used by the district, the Superintendent or designee shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment. (Education Code 56520)

When a student for whom a BIP is to be developed is also the responsibility of another agency for residential care or related services, the Superintendent or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner. (Education Code 56520)

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3065.

**Emergency Interventions**

Emergency interventions may be used only to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student or others and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior. (Education Code 56521.1)

No emergency intervention shall be used for longer than is necessary to contain the behavior. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

Emergency interventions shall not involve the use of force exceeding what is reasonable and necessary under the circumstances. In addition, use of locked seclusion or a device, material, or objects that simultaneously immobilize all hands and feet shall not be allowed except as allowed by law. (Education Code 56521.1)

Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include all of the following information: (Education Code 56521.1)

**BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS**
(continued)

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 BIP

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

If the behavior emergency report is for a student who does not have a BIP, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing the interim BIP. (Education Code 56521.1)

If the behavior emergency report is for a student who has a BIP, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (Education Code 56521.1)

**Prohibited Interventions**
The district prohibits the use of corporal punishment as defined in Education Code 49001 as an intervention. In addition, the district prohibits all of the following: (Education Code 56521.2)

1. Any intervention designed or likely to cause physical pain, including, but not limited to, electric shock

2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances near the student's face

3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities

4. Any intervention that is designed to subject, used to subject, or likely to subject the student to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma

**BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS**
(continued)

5. Any restrictive intervention that uses a device, material, or objects which simultaneously immobilize all hands and feet, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention

6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room

7. Any intervention that precludes adequate supervision of the student

8. Any intervention that deprives the student of one or more of his/her senses

*Legal Reference:*

*EDUCATION CODE*
*49001 Prohibition of corporal punishment*
*56321 Notice of parental rights; consent of parents*
*56500-56508 Procedural safeguards, including due process rights*
*56520-56525 Behavioral interventions*
*CODE OF REGULATIONS, TITLE 5*
*3065 Staff qualifications - related services*
*UNITED STATES CODE, TITLE 20*
*1400-1482 Individuals with Disabilities Education Act, especially:*
*1412 State eligibility*
*1415 Procedural safeguards*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*300.1-300.818 Assistance to states for the education of students with disabilities*

*Management Resources:*

*FEDERAL REGISTER*
*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*
*WEB SITES*
*Behavior Analyst Certification Board: http://www.calaba.org/bacb.shtm*
*U.S. Department of Education, Office of Special Education Programs:*
*http://www2.ed.gov/about/offices/list/osers/osep*

# SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

The Governing Board desires that district instructional materials, as a whole, present a broad spectrum of knowledge and viewpoints, reflect society's diversity, and enhance the use of multiple teaching strategies and technologies. The Board shall adopt instructional materials based on a determination that such materials are an effective learning resource to help students achieve grade-level competency and that the materials meet criteria specified in law. Textbooks, technology-based materials, and other educational materials shall be aligned with academic content standards and the district's curriculum to ensure that they effectively support the district's adopted courses of study.

*(cf. 0440 - District Technology Plan)*
*(cf. 6000 - Concepts and Roles)*
*(cf. 6011 - Academic Standards)*
*(cf. 6141 - Curriculum Development and Evaluation)*
*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - High School Graduation Requirements)*
*(cf. 6161.11 - Supplementary Instructional Materials)*
*(cf. 6162.5 - Student Assessment)*
*(cf. 6163.1 - Library Media Centers)*

The Board shall select instructional materials for use in grades K-8 that have been approved by the State Board of Education (SBE) or have otherwise been determined to be aligned with the state academic content standards adopted pursuant to Education Code 60605 or the Common Core Standards adopted pursuant to Education Code 60605.8. (Education Code 60200, 60210)

The Board shall adopt instructional materials for grades 9-12 upon determining that the materials meet the criteria specified in law and administrative regulation. (Education Code 60400)

The Board's priority in the selection of instructional materials is to ensure that all students are provided with standards-aligned instructional materials in the core curriculum areas of English/language arts, mathematics, science, and history-social science.

## Review Process

The Superintendent or designee shall establish a process by which instructional materials shall be reviewed for recommendation to the Board. Toward that end, he/she may establish an instructional materials review committee to evaluate and recommend instructional materials.

*(cf. 1220 - Citizen Advisory Committees)*

The review process shall involve teachers in a substantial manner and shall encourage the participation of parents/guardians and community members. (Education Code 60002)

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

In addition, the instructional materials review committee may include administrators, other staff who have subject-matter expertise, and students as appropriate.

If the district chooses to use instructional materials for grades K-8 that have not been adopted by the SBE, the Superintendent or designee shall ensure that a majority of the participants in the district's review process are classroom teachers who are assigned to the subject area or grade level of the materials. (Education Code 60210)

Individuals who participate in the selection or review of instructional materials shall not have a conflict of interest, as defined in administrative regulation, in the materials being reviewed.

*(cf. 9270 - Conflict of Interest)*

The committee shall review instructional materials using criteria provided in law and administrative regulation, and shall provide the Board with documentation supporting its recommendations.

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

*(cf. 5020 - Parent Rights and Responsibilities)*

The district may pilot instructional materials, using a representative sample of classrooms for a specified period of time during a school year, in order to determine how well the materials support the district's curricular goals and academic standards. Feedback from teachers piloting the materials shall be made available to the Board before the materials are adopted.

**Public Hearing on Sufficiency of Instructional Materials**

The Board shall annually conduct one or more public hearings on the sufficiency of the district's textbooks and other instructional materials. (Education Code 60119)

The hearing shall be held on or before the end of the eighth week from the first day students attend school for that year. (Education Code 60119)

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

*(cf. 9322 - Agenda/Meeting Materials)*

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

At the hearing(s), the Board shall determine, through a resolution, whether each student in each school, including each English learner, has sufficient textbooks or instructional materials which are aligned to the state content standards adopted pursuant to Education Code 60605 or the Common Core Standards adopted pursuant to Education Code 60605.8 and which are consistent with the content and cycles of the state's curriculum frameworks. Sufficiency of instructional materials shall be determined in each of the following subjects: (Education Code 60119)

1. Mathematics

*(cf. 6142.92 - Mathematics Instruction)*

2. Science

*(cf. 6142.93 - Science Instruction)*

3. History-social science

*(cf. 6142.94 - History-Social Science Instruction)*

4. English language arts, including the English language development component of an adopted program

*(cf. 6142.91 - English/Language Arts Instruction)*
*(cf. 6174 - Education for English Language Learners)*

5. Foreign language

*(cf. 6142.2 - World/Foreign Language Instruction)*

6. Health

*(cf. 6142.8 - Comprehensive Health Education)*

The Board shall also determine the availability of science laboratory equipment, as applicable to science laboratory courses offered in grades 9-12. (Education Code 60119)

In making these determinations, the Board shall consider whether each student has sufficient textbooks and/or instructional materials to use in class and to take home. However, this does not require that each student have two sets of materials. The materials may be in a digital format as long as each student, at a minimum, has and can access the same materials in the class and to take home as all other students in the same class or course in the district and has the ability to use and access them at home. However, the materials shall not be considered sufficient if they are photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage. (Education Code 60119)

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

The Board shall also make a determination that all students within the district who are enrolled in the same course have "identical" standards-aligned textbooks or instructional materials from the same adoption cycle, as defined in Education Code 1240.3 and 60119. (Education Code 1240.3, 42605)

However, the district may purchase the newest adopted instructional materials for students in district schools ranked in deciles 1-3 of the base Academic Performance Index in any one of the past three school years without necessarily purchasing these materials for use in other district schools. (Education Code 1240.3)

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

**Complaints**

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

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*
*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*Legal Reference:*

*EDUCATION CODE*
*220 Prohibition against discrimination*
*1240 County superintendent, general duties*
*1240.3 Definition of sufficiency for categorical flexibility*
*33050-33053 General waiver authority*
*33126 School accountability report card*
*35272 Education and athletic materials*
*42605 Tier 3 categorical flexibility*
*44805 Enforcement of course of studies; use of textbooks, rules and regulations*
*49415 Maximum textbook weight*
*51501 Nondiscriminatory subject matter*
*60000-60005 Instructional materials, legislative intent*
*60010 Definitions*
*60040-60052 Instructional requirements and materials*
*60060-60062 Requirements for publishers and manufacturers*
*60070-60076 Prohibited acts (re instructional materials)*
*60110-60115 Instructional materials on alcohol and drug education*
*60119 Public hearing on sufficiency of materials*
*60200-60210 Elementary school materials*
*60226 Requirements for publishers and manufacturers*
*60350-60352 Core reading program instructional materials*
*60400-60411 High school textbooks*
*60510-60511 Donation for sale of obsolete instructional materials*
*60605 State content standards*
*60605.8 Common Core Standards*
*60605.86-60605.88 Supplemental instructional materials aligned with Common Core Standards*

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

*CODE OF REGULATIONS, TITLE 5*
*9505-9530 Instructional materials*

*Management Resources:*
*CSBA PUBLICATIONS*
*Flexibility Provisions in the 2008 and 2009 State Budget: Policy Considerations for Governance Teams, Budget Advisory, March 2009*
*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*01-05 Guidelines for Piloting Textbooks and Instructional Materials, September 2001*
*Standards for Evaluating Instructional Materials for Social Content, 2000*
*WEB SITES*
*CSBA: http://www.csba.org*
*Association of American Publishers: http://www.publishers.org*
*California Academic Content Standards Commission, Common Core Standards: http://www.scoe.net/castandards*
*California Department of Education: http://www.cde.ca.gov*

# SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

## Criteria for Selection and Adoption of Instructional Materials

In recommending textbooks or other instructional materials for adoption by the Governing Board, the Superintendent or designee shall ensure that such materials:

1. Are aligned to any applicable academic content standards adopted by the State Board of Education (SBE) pursuant to Education Code 60605 and/or Common Core Standards adopted pursuant to Education Code 60605.8

*(cf. 6011 - Academic Standards)*

For grades K-8, the Superintendent or designee shall select instructional materials from among the list of materials adopted by the SBE and/or other materials that have not been adopted by the SBE but are aligned with the state academic content standards and/or the Common Core Standards. (Education Code 60200, 60210)

*(cf. 6161.11 - Supplementary Instructional Materials)*

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

2. For grades 9-12, are provided by publishers that comply with the requirements of Education Code 60040-60052, 60060-60062, and 60226 (Education Code 60400)

3. Do not reflect adversely upon persons because of their race or ethnicity, gender, religion, disability, nationality, sexual orientation, occupation, or other characteristic listed in Education Code 220, nor contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 51501, 60044)

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

4. To the satisfaction of the Board, are accurate, objective, current, and suited to the needs and comprehension of district students at their respective grade levels (Education Code 60045)

5. With the exception of literature and trade books, use proper grammar and spelling (Education Code 60045)
6. Do not expose students to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following: (Education Code 60048, 60200)

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by the SBE.

b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration.

*(cf. 1325 - Advertising and Promotion)*

7. If the materials are technology-based materials, are both available and comparable to other, equivalent instructional materials (Education Code 60052)
8. Meet the requirements of Education Code 60040-60043 for specific subject content

9. Support the district's adopted courses of study and curricular goals

*(cf. 6141 - Curriculum Development and Evaluation)*
*(cf. 6142.2 - World/Foreign Language Instruction)*
*(cf. 6142.8 - Comprehensive Health Education)*
*(cf. 6142.91 - English/Language Arts Instruction)*
*(cf. 6142.92 - Mathematics Instruction)*
*(cf. 6142.93 - Science Instruction)*
*(cf. 6142.94 - History-Social Science Instruction)*
*(cf. 6143 - Courses of Study)*
*(cf. 6146.1 - High School Graduation Requirements)*

10. Contribute to a comprehensive, balanced curriculum

11. Demonstrate reliable quality of scholarship as evidenced by:

a. Accurate, up-to-date, and well-documented information

b. Objective presentation of diverse viewpoints

c. Clear, concise writing and appropriate vocabulary

d. Thorough treatment of subject matter

12. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities, and developmental levels

13. Include materials that stimulate discussion of contemporary issues and improve students' thinking and decision-making skills

14. Contribute to the proper articulation of instruction through grade levels

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

15. As appropriate, have corresponding versions available in languages other than English

16. Include high-quality teacher's guides

17. Meet high standards in terms of the quality, durability, and appearance of paper, binding, text, and graphics

18. When available, include options for lighter weight materials in order to help minimize any injury to students by the combined weight of instructional materials

**Conflict of Interest**

To ensure integrity and impartiality in the evaluation and selection of instructional materials, any district employee who is participating in the evaluation of instructional materials and not otherwise designated in the district's conflict of interest code shall sign a disclosure statement indicating that he/she:

1. Shall not accept any emolument, money, or other valuable thing or inducement to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material (Education Code 60072)

   Sample copies of instructional materials are excepted from this prohibition. (Education Code 60075)

2. Is not employed by nor receives compensation from the publisher or supplier of the instructional materials or any person, firm, organization, subsidiary, or controlling entity representing it

3. Does not have and will not negotiate a contractual relationship with the publisher or supplier of the instructional materials or any person, firm, organization, subsidiary, or controlling entity representing it

4. Does not have an interest as a contributor, author, editor, or consultant in any textbook or other instructional material submitted to the district

*(cf. 9270 - Conflict of Interest)*

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS**

## RESOLUTION ON SUFFICIENCY OF INSTRUCTIONAL MATERIALS

Whereas, the Governing Board of the *(name of school district/county office of education)*, in order to comply with the requirements of Education Code 60119, held a public hearing on *(date)*, at *(time)* o'clock, which is on or before the eighth week of school (between the first day that students attend school and the end of the eighth week from that day) and which did not take place during or immediately following school hours, and;

Whereas, the Board provided at least 10 days notice of the public hearing by posting it in at least three public places within the district stating the time, place, and purpose of the hearing, and;

Whereas, the Board encouraged participation by parents/guardians, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

Whereas, information provided at the public hearing detailed the extent to which sufficient textbooks or instructional materials were provided to all students, including English learners, in the *(name of school district/county office of education)*, and;

Whereas, the definition of "sufficient textbooks or instructional materials" means that each student, including each English learner, has a standards-aligned textbook or instructional materials to use in class and to take home, which may include materials in a digital format but shall not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage, and;

Whereas, the definition of "sufficient textbooks or instructional materials" also means that all students who are enrolled in the same course within the *(name of school district/county office of education)*, have standards-aligned textbooks or instructional materials from the same adoption cycle, and;

Note: Pursuant to Education Code 60119, as amended by AB 1246 (Ch. 668, Statutes of 2012), a determination as to whether the instructional materials are "standards-aligned" may be based on alignment to either state academic content standards adopted by the State Board of Education pursuant to Education Code 60605 or the Common Core Standards adopted pursuant to Education Code 60605.8.

Whereas, textbooks or instructional materials in core curriculum subjects should be aligned with state academic content standards adopted by the State Board of Education pursuant to Education Code 60605 and/or the Common Core Standards adopted pursuant to Education Code 60605.8;

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

**Finding of Sufficient Textbooks or Instructional Materials**

Whereas, sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks were provided to each student, including each English learner, in the following subjects:

- Mathematics: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

- Science: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

- History-social science: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

- English language arts, including the English language development component of an adopted program: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

- Foreign language: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

- Health: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*

  _____

  _____

Whereas, laboratory science equipment was available for science laboratory classes offered in grades 9-12, inclusive;

Therefore, it is resolved that for the (*year*) school year, the *(name of school district/county office of education)* has provided each student with sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks.

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS** (continued)

**Finding of Insufficient Textbooks or Instructional Materials**

Whereas, information provided at the public hearing and to the Board at the public meeting detailed that insufficient standards-aligned textbooks or instructional materials were provided to students in the following subjects and grade levels at district schools: *(For each school,*

*list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in mathematics, science, history-social science, English language arts, foreign language, and health.)*

_____
_____

Whereas, sufficient textbooks or instructional materials were not provided at each school listed above due to the following reasons: *(For each school at which there is an insufficiency, list the reasons that each student does not have sufficient instructional materials in each subject and grade level listed above.)*

_____
_____

Therefore, it is resolved, that for the (*year*) school year, the *(name of school district/county office of education)* has not provided each student with sufficient textbooks or instructional materials that are consistent with the cycles and content of the curriculum framework, and;

Be it further resolved, that the following actions will be taken to ensure that all students have sufficient standards-aligned textbooks or instructional materials in all subjects that are consistent with the cycles and content of the curriculum frameworks within two months of the beginning of the school year in which this determination is made. *(List actions to be taken to resolve insufficiency. See Education Code 60119(a)(2)(B) for other funds that may be used to ensure sufficient instructional materials.)*

_____
_____
_____

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES:_____ NOES:_____ ABSENT:_____

Attest:

_____ _____
Secretary President

## SUPPLEMENTARY INSTRUCTIONAL MATERIALS

The Governing Board encourages the use of supplementary instructional materials to enrich the curriculum and enhance student learning. Such materials shall be aligned with district goals, curriculum objectives, and academic standards and shall supplement and not supplant the use of Board-adopted basic instructional materials that serve as the primary learning resources.

*(cf. 0000 - Vision)*
*(cf. 0200 - Goals for the School District)*
*(cf. 6011 - Academic Standards)*
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*
*(cf. 6163.1 - Library Media Centers)*

*Supplementary instructional materials* include, but are not limited to, instructional materials that are designed to serve one or more of the following purposes: (Education Code 60010)

1. To provide more complete coverage of one or more subjects included in a given course

2. To meet the various learning ability levels of students in a given age group or grade level

3. To meet the diverse educational needs of students with a language disability in a given age group or grade level

4. To meet the diverse educational needs of students reflective of a condition of cultural pluralism

5. To use current, relevant technology that further engages interactive learning in the classroom and beyond

*(cf. 6142.91 - English/Language Arts Instruction)*
*(cf. 6142.92 - Mathematics Instruction)*
*(cf. 6142.93 - Science Instruction)*
*(cf. 6142.94 - History-Social Science Instruction)*

Supplementary instructional materials may be selected by the Superintendent or designee, school administrators, or teachers, as applicable, and obtained through donations to the district and/or available funding sources designated for these purposes.

*(cf. 1260 - Educational Foundation)*
*(cf. 3290 - Gifts, Grants and Bequests)*
*(cf. 4132/4232/4332 - Publication or Creation of Materials)*

As appropriate, supplementary instructional materials shall meet the criteria developed for the selection and evaluation of basic instructional materials as described in AR 6161.1 - Selection and Evaluation of Instructional Materials. Supplementary instructional materials

**SUPPLEMENTARY INSTRUCTIONAL MATERIALS** (continued)

shall be directly related to the course of study in which they are being used and shall be appropriate for the age and maturity level of the students.

The use or reproduction of supplementary instructional materials shall be in accordance with federal copyright law.

*(cf. 6162.6 - Use of Copyrighted Materials)*

**Supplementary Materials Aligned with Common Core Standards**

To prepare district students to achieve the Common Core Standards in English language arts and mathematics and the English language development standards, as applicable, the Board may select supplementary instructional materials from the lists of materials determined by the State Board of Education (SBE) to be aligned with those standards. (Education Code 60605.86-60605.88)

The Board may approve supplementary instructional materials that are not on the lists approved by the SBE but which are aligned with the Common Core Standards provided that the materials comply with the evaluation criteria established by the SBE and Education Code 60050, 60060-60062, and 60226. The Board shall select content review experts who possess the qualifications specified in law to review and recommend such supplementary materials. The majority of the content review experts shall be teachers who are credentialed and/or authorized in the subject area they are reviewing and the remainder shall include appropriate persons from postsecondary educational institutions, school and district curriculum administrators, and other persons who are knowledgeable in the subject area. (Education Code 60605.86-60605.88)

**Appropriateness of Materials**

Whenever a district employee proposes to use a supplementary resource which is not included in the approved learning resources of the district, he/she shall preview the material to determine whether, in his/her professional judgment, it is appropriate for the grade level taught and is consistent with district criteria for the selection of supplementary instructional materials.

The employee shall confer with the Superintendent or designee as necessary to determine the compliance of the material with district criteria. The primary considerations should be the educational value, appropriateness, and relevance of the materials as well as the ages and maturity of the students.

*(cf. 6141.2 - Recognition of Religious Beliefs and Customs)*
*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*
*(cf. 6144 - Controversial Issues)*

**SUPPLEMENTARY INSTRUCTIONAL MATERIALS** (continued)

*Legal Reference:*

*EDUCATION CODE*
*233.5 Duty regarding instruction in morals, manners, and citizenship*
*18111 Exclusion of books by governing board*
*51510 Prohibited study or supplemental materials*
*51511 Religious matters properly included*
*51933 Sex education materials*
*60010 Definitions*
*60050 Social content review of instructional materials*
*60060-60062 Requirements of publishers*
*60200.7 Suspension of state instructional materials adoptions*
*60226 Learner verification of instructional materials*
*60400 Adoption of high school instructional materials*
*60605.8 Common Core Standards*
*60605.86-60605.88 Supplemental instructional materials aligned with Common Core Standards*
*60811.3 English language development standards*
*COURT DECISIONS*
*McCarthy v. Fletcher, (1989) 207 Cal. App. 3d 130*
*Fowler v. Board of Education of Lincoln County, (1978) 819 F.2d 657*

*Management Resources:*

*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Standards for Evaluating Instructional Materials for Social Content, 2000*
*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education: http://www.cde.ca.gov*

## DAMAGED OR LOST INSTRUCTIONAL MATERIALS

The Governing Board recognizes that instructional materials are an expensive resource and that each student is entitled to sufficient instructional materials in accordance with law. Instructional materials provided for use by students remain the property of the district. Students are responsible for returning borrowed materials in good condition, with no more wear and tear than usually results from normal use.

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*
*(cf. 1312.4 - Williams Uniform Complaint Procedures)*
*(cf. 3260 - Fees and Charges)*
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

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

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

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

*(cf. 3515.4 - Recovery for Property Loss or Damage)*
*(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)*
*(cf. 5131.5 - Vandalism and Graffiti)*
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*Legal Reference:*

*EDUCATION CODE*
*48904 Willful misconduct; limit of liability of parent or guardian*
*48904.3 Withholding grades, diplomas or transcripts of students causing property damage or injury*
*60119 Public hearing on sufficiency of materials*
*60411 Purchase and use; property of district*
*CIVIL CODE*
*1714.1 Liability of parent or guardian for act of willful misconduct by a minor*
*CODE OF REGULATIONS, TITLE 5*
*305 Student responsible for care of property*

*Management Resources:*

*WEB SITES*
*California Department of Education: http://www.cde.ca.gov*

**TOXIC ART SUPPLIES**

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

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

The Superintendent or designee shall ensure that arts and crafts material purchased for use by students in grades K-6 will not contain toxic substances or cause chronic illness as determined by the State Department of Health Services.

Students in grades 7-12 are considered able to read and understand product labels and to take adequate precautions to use products which are prohibited for use in grades K-6. The Superintendent or designee shall ensure that arts and crafts materials purchased for use in grades 7-12 meet the requirements of Education Code 32065. The products must be properly labeled to identify toxic ingredients, warn of potential adverse health effects and describe procedures for safe use and storage.

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

*Legal Reference:*
*EDUCATION CODE*
*32060 Legislative findings and declarations*
*32061 Art or craft material; definition*
*32062 Human carcinogen; definition*
*32063 Toxic substance causing chronic illness; definition*
*32064 Restrictions on purchases of arts and crafts materials*
*32065 Warning labels*
*32066 List of toxic art supplies; preparation and distribution*
*HEALTH AND SAFETY CODE*
*108500-108515 Labeling of arts and crafts materials*
*PENAL CODE*
*594.1 Aerosol containers of paint*

*Management Resources:*
*CDE PROGRAM ADVISORIES:*
*0712.94 Toxic Art Supplies List of Approved Products CIL :94/95-01*

**STUDENT ASSESSMENT**

The Governing Board recognizes that student assessments are an important instructional and accountability tool. Assessment data shall be used to help determine individual students' progress, mastery of academic standards, appropriate placement in district programs, and/or eligibility for graduation. In addition, summary data on student assessment results shall be used by the district to identify and review student achievement goals in the district's local control and accountability plan, evaluate district educational programs in order to identify needed improvements, and, as appropriate, evaluate staff performance.

*(cf. 0460 - Local Control and Accountability Plan)*
*(cf. 0500 - Accountability)*
*(cf. 2140 - Evaluation of the Superintendent)*
*(cf. 4115 - Evaluation/Supervision)*
*(cf. 4315 - Evaluation/Supervision)*
*(cf. 5121 - Grades/Evaluation of Student Achievement)*
*(cf. 5123 - Promotion/Acceleration/Retention)*
*(cf. 6011 - Academic Standards)*
*(cf. 6142.7 - Physical Education and Activity)*
*(cf. 6162.51 - State Academic Achievement Tests)*
*(cf. 6162.52 - High School Exit Examination)*
*(cf. 6190 - Evaluation of the Instructional Program)*

To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments. As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, and/or school site to allow for critical analysis of student needs.

*(cf. 3553 - Free and Reduced Price Meals)*

In selecting or developing any district assessment, the Superintendent or designee shall examine evidence of its reliability, its validity for the intended purpose and for various student populations, and the extent to which it aligns with the material that is being taught.

The Superintendent or designee shall ensure that assessments are administered in accordance with law and the test publisher's directions and that test administration procedures are fair and equitable for all students.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*
*(cf. 6162.54 - Test Integrity/Test Preparation)*

The Superintendent or designee shall provide professional development as needed to assist administrators and teachers in interpreting and using assessment data to improve student performance and the instructional program.

*(cf. 4131 - Staff Development)*
*(cf. 4331 - Staff Development)*

**STUDENT ASSESSMENT** (continued)

When districtwide and school-level results of student assessments are published by the state, the Superintendent or designee may provide supplementary information to assist parents/guardians and the community in understanding test results.

*(cf. 0510 - School Accountability Report Card)*

**Individual Record of Accomplishment**

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

1.The results of the state achievement tests administered pursuant to Education Code 60640-60649 or any predecessor assessments

2. The results of any end-of-course examinations taken

3. The results of any vocational education certification examinations taken

*(cf. 6178 - Career Technical Education)*

No individual record of accomplishment shall be released to any person, other than the student's parent/guardian or a teacher, counselor, or administrator directly involved with the student, without the written consent of the student's parent/guardian, or the student if he/she is an adult or emancipated minor. The student or his/her parent/guardian may authorize the release of the record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission. (Education Code 60607)

*(cf. 5125 - Student Records)*

*Legal Reference:*

*EDUCATION CODE*
*313 Assessment of English language development*
*10600-10610 California Education Information System*
*44660-44665 Evaluation and assessment of performance of certificated employees (Stull Act)*
*49558 Free and reduced-price meals; use of individual applications and records*
*51041 Evaluation of educational program*
*51450-51455 Golden State Seal Merit Diploma*
*52052 Academic Performance Index; numerically significant student subgroups*
*52060-52077 Local control and accountability plan*
*60600-60649 Assessment of academic achievement, especially:*
*60640-60649 California Assessment of Student Performance and Progress*
*60800 Physical fitness testing*
*60810-60812 Assessment of English language development*
*60850-60859 High school exit examination*
*60900 California Longitudinal Pupil Achievement Data System*
*CODE OF REGULATIONS, TITLE 5*
*850-864 California Assessment of Student Performance and Progress*
*1200-1225 High School Exit Examination*
*UNITED STATES CODE, TITLE 20*
*9622 National Assessment of Educational Progress*

**STUDENT ASSESSMENT** (continued)

*Management Resources:*

*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Key Elements of Testing, May 2004*
*U.S. DEPARTMENT OF EDUCATION PUBLICATIONS*
*Teachers' Use of Student Data Systems to Improve Instruction, 2007*
*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education, Testing and Accountability: http://www.cde.ca.gov/ta*
*Smarter Balanced Assessment Consortium: http://www.smarterbalanced.org*
*U.S. Department of Education: http://www.ed.gov*

**STATE ACADEMIC ACHIEVEMENT TESTS**

The Governing Board recognizes that state achievement test results provide an indication of student progress in achieving state academic standards and may be used to promote high-quality teaching and learning. The Superintendent or designee shall administer mandatory student assessments within the California Assessment of Student Performance and Progress (CAASPP) as required by law and in accordance with Board policy and administrative regulation.

*(cf. 6011 - Academic Standards)*
*(cf. 6162.5 - Student Assessment)*
*(cf. 6162.54 - Test Integrity/Test Preparation)*
*(cf. 9321 - Closed Session Purposes and Agendas)*
*(cf. 9321.1 - Closed Session Actions and Reports)*

The Board strongly encourages all students at the applicable grade levels to participate in the state assessments in order to maximize the usefulness of the data and enable the district to meet participation levels required for state and federal accountability systems. The Superintendent or designee shall notify students and parents/guardians about the importance of these assessments and shall develop strategies to encourage student participation. Students shall be exempted from participation only in accordance with law and administrative regulation.

*(cf. 0520.2 - Title I Program Improvement Schools)*
*(cf. 0520.3 - Title I Program Improvement Districts)*
The Board shall annually examine state assessment results by school, grade level, and student subgroup as one measure of the district's progress in attaining its student achievement goals and shall revise the local control and accountability plan and other district or school plans as necessary to improve student achievement for underperforming student groups.

*(cf. 0460 - Local Control and Accountability Plan)*
*(cf. 0500 - Accountability)*

*Legal Reference:*

*EDUCATION CODE*
*49076 Student records; access*
*51041 Evaluation of educational program*
*52052 Academic Performance Index; numerically significant student subgroups*
*52060-52077 Local control and accountability plan*
*56345 Individualized education program, contents*
*60600-60630 Assessment of academic achievement*
*60640-60649 California Assessment of Student Performance and Progress*
*60660-60663 Electronic learning assessment resources*
*60810 Assessment of language development*
*99300-99301 Early Assessment Program*
*CODE OF REGULATIONS, TITLE 5*
*850-864 State assessments*
*UNITED STATES CODE, TITLE 20*
*1412 Participation of students with disabilities in state assessments*
*6311 Adequate yearly progress*
*CODE OF FEDERAL REGULATIONS, TITLE 34*

**STATE ACADEMIC ACHIEVEMENT TESTS** (continued)

*200.1 Standards and assessment*

*Management Resources:*

*CSBA PUBLICATIONS*
*Supporting Student Achievement: Student Assessment System in Flux, Governance Brief, June 2013*
*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Assembly Bill 484 Questions and Answers*
*CALIFORNIA STATE UNIVERSITY PUBLICATIONS*
*The Early Assessment Program: Handbook for School Site Leaders, 2008*
*SMARTER BALANCED ASSESSMENT CONSORTIUM PUBLICATIONS*
*Usability, Accessibility, and Accommodations Guidelines, September 2013*
*U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS*
*The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2000*
*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education, Testing and Accountability: http://www.cde.ca.gov/ta*
*California Learning Resources Network: http://clrn.org*
*California State University, Early Assessment Program: http://www.calstate.edu/eap*
*Smarter Balanced Assessment Consortium: http://www.smarterbalanced.org*
*U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr*

**STATE ACADEMIC ACHIEVEMENT TESTS**

The district shall administer the following assessments in the California Assessment of Student Performance and Progress (CAASPP): (Education Code 60640)

1. The Smarter Balanced Assessment Consortium summative assessments for English language arts and mathematics, aligned with Common Core State Standards, in grades 3-8 and 11

*(cf. 6142.91 - Reading/Language Arts Instruction)*
*(cf. 6142.92 - Mathematics Instruction)*

All students at the applicable grade levels shall be administered these tests, except that:

a. English learners who are in their first 12 months of attending a school in the United States shall be exempted from taking the English language arts assessment to the extent allowed by federal law

b. Students with disabilities may be provided an alternate test in accordance with their individualized education program (IEP), as provided in item #3 below

*(cf. 6159 - Individualized Education Program)*
*(cf. 6164.6 - Identification and Education Under Section 504)*

2. California Standards Tests in science at grades 5, 8, and 10

*(cf. 6142.93 - Science Instruction)*

3. For students with disabilities who are unable to take the tests specified in items #1-2 above even with appropriate accommodations, the California Alternate Performance Assessment (CAPA) in English language arts and mathematics for students in grades 2-11 and either the CAPA or California Modified Assessment in science for students in grades 5, 8, and 10, in accordance with the student's IEP

4. The Standards-Based Test in Spanish (STS) to Spanish-speaking English learners in grades 2-11. This test may be administered to English learners in addition to the state achievement tests administered in English.

*(cf. 6174 - Education for English Language Learners)*

The STS also may be used to assess students in a dual language immersion program who are not limited English proficient or who are redesignated fluent English proficient.

6. For students in grade 11 on a voluntary basis, an augmented achievement test approved
7. for use in the Early Assessment Program as a measure of students' readiness

**STATE ACADEMIC ACHIEVEMENT TESTS** (continued)

for college-level work in English and/or mathematics pursuant to Education Code 99300-99301

**Testing Period**

The state achievement tests shall be administered within the testing period established by the State Board of Education (SBE) pursuant to Education Code 60640. Students who are absent during testing shall be provided an opportunity to take the tests during the period of time established by the SBE for make-up testing.

**Exemptions**

A parent/guardian may submit to the school a written request to excuse his/her child from any or all parts of any test. However, district employees shall not solicit or encourage any written exemption on behalf of any student or group of students. (5 CCR 852)

**Testing Variations**

Assessments shall be administered in accordance with the manuals or other instructions provided by the test contractor and California Department of Education (CDE), except that students may be provided a tool, support, or accommodation that is specifically allowed pursuant to 5 CCR 853.5.

Accommodations provided to students with disabilities shall be those specified in their IEP or Section 504 plan. (5 CCR 850, 853.5)

**Staff Responsibilities**

On or before September 30 of each year, the Superintendent or designee shall designate a district coordinator who shall oversee all matters related to the testing program and serve as the district representative and liaison with the test contractor and the CDE. In addition, the Superintendent or designee shall designate a coordinator for each test site. The duties of the district and school site test coordinators shall include those specified in 5 CRR 857-858. (5 CCR 857-858)

The Superintendent or designee also shall appoint test examiner(s) to administer the state assessments. A test examiner shall be an employee or contractor of the district or, for the CAPA, shall be a certificated or licensed employee of the school, district, or county office of education. (5 CCR 850)

*(cf. 4112.2 - Certification)*
*(cf. 4113 - Assignment)*

As appropriate, the Superintendent or designee shall assign a specially trained district employee to serve as a test proctor to assist the test examiner; a specially trained district

**STATE ACADEMIC ACHIEVEMENT TESTS** (continued)

employee, or other person supervised by a district employee, to serve as a translator to translate the test directions into a student's primary language; and a district employee to serve as a scribe to transcribe a student's responses to the format required by the test. A student's parent/guardian shall not be eligible to be that student's translator or scribe. (5 CCR 850)

Test coordinators, examiners, proctors, translators, and scribes shall sign a test security agreement or affidavit. (5 CCR 850, 857-859)

**Report of Test Results**

For any state assessments that produce valid individual student results, the Superintendent or designee shall provide a written report of the student's results to his/her parents/guardians which includes a clear explanation of the purpose of the test, the student's score, and its intended use by the district. An individual student's scores shall also be reported to his/her school and teacher(s) and shall be included in his/her student record. (Education Code 60641; 5 CCR 863)

*(cf. 5125 - Student Records)*
*(cf. 5145.6 - Parental Notifications)*

With parent/guardian consent, the Superintendent or designee may release a student's test results to a postsecondary educational institution for the purposes of credit, placement, determination of readiness for college-level coursework, or admission. (Education Code 60641)

The Superintendent or designee shall present districtwide, school-level, and grade-level results to the Governing Board at a regularly scheduled meeting. The Board shall not receive individual students' scores or the relative position of any individual student. (Education Code 49076, 60641)

**HIGH SCHOOL EXIT EXAMINATION**

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

*(cf. 6146.1 - High School Graduation Requirements)*
*(cf. 6162.5 - Student Assessment)*
*(cf. 6162.54 - Test Integrity/Test Preparation)*
*(cf. 6164.2 - Guidance/Counseling Services)*
*(cf. 6177 - Summer School)*
*(cf. 6179 - Supplemental Instruction)*

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

The Superintendent or designee shall administer the exit exam in accordance with law. (Education Code 60850)

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

*Legal Reference:*

*EDUCATION CODE*
*35146 Closed sessions*
*35186 Williams Uniform Complaint Procedures*
*37252-37254.1 Supplemental instruction*
*51041 Evaluation of educational program*
*56026 Individuals with exceptional needs*
*56101 Waiver of code or regulation*
*60810 Assessment of language development*
*60850-60859 Exit examination*
*CODE OF REGULATIONS, TITLE 5*
*1200-1225 High school exit examination*
*UNITED STATES CODE, TITLE 20*
*1400-1482 Individuals with Disabilities Education Act*
*UNITED STATES CODE, TITLE 29*
*794 Rehabilitation Act of 1973, Section 504*
*CODE OF FEDERAL REGULATIONS, TITLE 34*
*300.503 Prior notice*
*COURT DECISIONS*
*O'Connell v. Superior Court (Valenzuela), (2006) 141 Cal.App.4th 1452*
*Smiley v. California Department of Education, (2002) 45 Fed.Appx. 780*
*Chapman v. California Department of Education, (2002) 229 F.Supp.2d 981*

*Management Resources:*

*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Independent Evaluation of the California High School Exit Examination (CAHSEE), Annual Reports, Human Resources Research Organization*
*U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS*
*The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2001*

**HIGH SCHOOL EXIT EXAMINATION** (continued)

*WEB SITES*
*CSBA: http://www.csba.org*
*California Department of Education, California High School Exit Examination: http://www.cde.ca.gov/ta/tg/hs/index.asp*
*Educational Testing Service: http://www.ets.org/cahsee*
*U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr/index.html*

# HIGH SCHOOL EXIT EXAMINATION

## Definitions

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

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

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

## District and Test Site Coordinators

On or before July 1 of each school year, the Superintendent shall designate a high school exit examination coordinator from among district employees and shall notify the test contractor of the identity and contact information of the coordinator. The district coordinator or Superintendent or designee shall be available throughout the year, shall serve as the liaison between the district and the test contractor and between the district and the California Department of Education (CDE) for all matters related to the exit exam, and shall perform additional duties specified in 5 CCR 1209-1211.5. (5 CCR 1209)

Annually, the district coordinator or Superintendent or designee shall designate a test site coordinator for each test site to fulfill the responsibilities specified in 5 CCR 1210-1211.5. (5 CCR 1210)

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

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

## Administration

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

The exit exam shall be administered as follows: (Education Code 60851, 60852.3; 5 CCR 1204, 1204.5)

1. Students in grade 10, including students with disabilities who are otherwise exempt from the requirements of the exam, shall take each section of the exit exam once during the school year, either during the grade 10 census administration or the district-designated grade 10 make-up administration.

2. Students in grade 11 who have not yet passed one or both sections of the exit exam shall have up to two opportunities during the school year to take the section(s) of the exam not yet passed and may elect to take the exam during these opportunities. These students may be tested in successive administrations within a school year. Students should be offered appropriate remediation or supplemental instruction before being retested.

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

*(cf. 6179 - Supplemental Instruction)*

**HIGH SCHOOL EXIT EXAMINATION** (continued)

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

*(cf. 6200 - Adult Education)*

If a student does not possess sufficient English language skills to be assessed on the exit exam, the Superintendent or designee may defer the exam requirement for a period of up to 24 calendar months of enrollment in the California public school system until the student has completed six months of instruction in reading, writing, and comprehension in the English language. (Education Code 60852)

*(cf. 6174 - Education for English Learners)*

Test administrators at the test sites shall be responsible for the accurate identification of eligible students to whom the exit exam is to be administered. This identification shall be

made through the use of photo identification or positive recognition by an employee of the district. (5 CCR 1203)

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

*(cf. 5131.9 - Academic Honesty)*
*(cf. 6162.54 - Test Integrity/Test Preparation)*

**Testing Variations for All Students**

The Superintendent or designee may provide any student taking the exit exam with extra time within a testing day, simplified or clarified test directions (but not test questions), student marks (other than responses) including highlighting in test booklets, and/or testing in a small group setting. (5 CCR 1215)

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

1. Special lighting, special acoustics, or special or adaptive furniture

2. Visual magnifying or audio amplification equipment

3. Noise buffers (e.g., an individual carrel or study enclosure)

4. Testing of individual students in a separate room provided that the student is directly supervised by an employee who has signed the test security affidavit

5. Colored overlay, mask, or other means to maintain visual attention to the exam or test items

6. Manually Coded English or American Sign Language to present test administration directions

**HIGH SCHOOL EXIT EXAMINATION** (continued)

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

**Testing Variations for English Language Learners**

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

1. Flexible setting: English language learners may have the opportunity to be tested in a separate room with other English language learners provided that the students are directly supervised by an employee who has signed the test security affidavit.

2. Flexible schedule: English learners may have additional supervised breaks within a testing day.

3. Flexible time: English learners may have extra time on the exam within a testing day.

4. Translated directions: English learners may have the opportunity to hear the test directions printed in the test contractor's manual translated into their primary language. English learners may have the opportunity to ask clarifying questions about the test directions in their primary language.

5. Glossaries: English learners may have access to translation glossaries (English to primary language and/or primary language to English). The glossaries are to include only the English words or phrases with the corresponding primary language words or phrases. The glossaries shall include no definitions, formulas, or parts of speech.

**Accommodations/Modifications for Students with Disabilities**

A student with disabilities shall be permitted to take the exit exam with accommodations or modifications when the student's IEP or his/her Section 504 plan specifies their use on the exit exam, for standardized testing, or during classroom instruction and assessments. (Education Code 60850; 5 CCR 1215.5, 1216)

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*
*(cf. 6159 - Individualized Education Program)*
*(cf. 6164.6 - Identification and Education Under Section 504)*

The use of accommodations shall not invalidate a student's test score(s). Accommodations may include: (5 CCR 1215.5)

1. Presentation accommodations, including large-print versions in 20-point font, exam items enlarged if larger than 20-point font is required, Braille transcriptions provided by the test contractor, audio or oral presentation of the mathematics section of the exam, or use of Manually Coded English or American Sign Language to present test questions on the mathematics section of the exam or any prompts or passages present in the writing task

2. Response accommodations, including responses marked in the test booklet and transferred to the answer document by an employee who has signed the test security affidavit; responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe for selected-response items (e.g., multiple-choice test questions); responses dictated orally or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter on the writing portion of the exam and the

**HIGH SCHOOL EXIT EXAMINATION** (continued)

student indicates all spelling and language conventions; word processing software with spell and grammar check tools turned off on the writing portion of the exam; oran assistive device that does not interfere with the independent work of the student on the multiple-choice or writing portion of the exit exam

3. Scheduling/timing accommodations, including testing over more than one day after consultation with the test contractor, supervised breaks within a section of the exam, and administration of the exam at the most beneficial time of day to the student after consultation with the test contractor

4. Setting accommodations, including tests administered by a test examiner to a student at home or in the hospital

For purposes of receiving a high school diploma, the use of modifications shall invalidate a student's test score for the section of the exam for which the modification(s) were used. If the score is equivalent to a passing score, the student may be eligible for a waiver, as detailed below. Modifications may include: (5 CCR 1216)

1. Arithmetic table or formulas, calculators, or math manipulatives on the mathematics section of the exit exam

2. Audio or oral presentation of the multiple-choice portion of the English language arts section of the exit exam

3. Manually Coded English or American Sign Language to present the multiple-choice portion on the English language arts section of the exit exam

4. Spell checkers, grammar checkers, or word processing software programs that check or correct spelling and/or grammar on the writing portion of the exit exam

5. Mechanical or electronic devices or other assistive devices that are not used solely to record the student's responses, including, but not limited to, transcribers, scribes, voice recognition or voice-to-text software, and that identify a potential error in the student's response or that correct spelling, grammar, or conventions on the writing portion of the exit exam

6. Responses dictated orally, in Manually Coded English, or in American Sign Language to provide an essay response to a scribe and the scribe provides spelling, grammar, and language conventions

7. Dictionary on any section of the exam

**Exemption for Students with Disabilities Beginning in 2009-10**

The district shall grant a diploma to a student with a disability who has not passed the exit exam if all of the following criteria are satisfied: (Education Code 60852.3)

1. The student has an IEP or Section 504 plan.

2. The IEP or 504 plan states that the student is scheduled to receive a high school diploma.

3. The student has satisfied or will satisfy all other state and district requirements for the receipt of a high school diploma on or after July 1, 2009.

**HIGH SCHOOL EXIT EXAMINATION** (continued)

**Waiver for Students with Disabilities**

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

1. An IEP or Section 504 plan in place that requires the accommodations or modifications to be provided to the student when taking the exit exam

2. Sufficient high school level coursework either satisfactorily completed or in progress in the high school level curriculum sufficient to have attained the skills and knowledge otherwise needed to pass the exit exam

3. An individual score report showing that the student has received the equivalent of a passing score on the exit exam while using a modification that fundamentally alters what the exam measures as determined by the State Board of Education

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

*(cf. 9321 - Closed Session Purposes and Agendas)*
*(cf. 9321.1 - Closed Session Actions and Reports)*

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

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

**Records**

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

1. The date on which each section of the exam was taken

2. The full name of each student who took each section of the exam

3. The grade level of each student at the time each section of the exam was taken

4. Whether each student has satisfied the requirement to successfully pass each section of the exam

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

Within 60 days of receiving electronic data files from the test contractor, the Superintendent or designee shall enter the following information in each student's permanent record: (5 CCR 1206)

1. The date on which the student took each section of the exam

2. Whether the student has satisfied the requirement to successfully pass each section of the exam

**HIGH SCHOOL EXIT EXAMINATION** (continued)

*(cf. 5125 - Student Records)*

**Notifications**

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

*(cf. 5145.6 - Parental Notifications)*
*(cf. 6146.1 - High School Graduation Requirements)*

Prior to each administration of the exit exam, the Superintendent or designee shall notify students of the provisions of 5 CCR 1220 related to the consequences of cheating. (5 CCR 1220)

**HIGH SCHOOL EXIT EXAMINATION**

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

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

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

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

1. An individualized education program (IEP) adopted pursuant to the Individuals with Disabilities Education Act or a plan adopted pursuant to Section 504 of the Rehabilitation Act of 1973 that specifies the use of the modification(s) on the exit exam, standardized testing, or classroom instruction and assessments

2. Sufficient high school level coursework either satisfactorily completed or in progress in the district's high school level curriculum sufficient to have attained the skills and knowledge otherwise needed to pass the exit exam

3. An individual score report showing that my child has received the equivalent of a passing score on the exam while using a modification that fundamentally alters what the exit exam measures as determined by the State Board of Education

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

Parent/Guardian Signature:_____ Date:_____

(1/03) 7/04

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**HIGH SCHOOL EXIT EXAMINATION**

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

Student's Name:_____

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

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

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

1. Has an individualized education program (IEP) adopted pursuant to the Individuals with Disabilities Education Act or Section 504 plan that specifies the use of the modification(s) on the exit exam, standardized testing or classroom instruction and assessments. *(Attach the IEP or Section 504 plan that indicates the modification needed to participate and access the high school exit exam.)*

    a. Describe the nature of the student's disability as identified on the IEP or Section 504 plan:

    b. Describe any modification(s) used on the English/language arts section of the exam:

**HIGH SCHOOL EXIT EXAMINATION** (continued)

c. Describe any modification(s) used on the mathematics section of the exam:

d. List the rationale as to why the modification used was necessary to allow the student to access the test:

e. Describe the accommodations/modifications that the student regularly uses for English/language arts in the classroom and on other assessments:

f. Describe the accommodations/modifications that the student regularly uses for mathematics in the classroom and on other assessments:

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

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

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

Certified by: _____[principal's signature]_____ Date:_____

## TEST INTEGRITY/TEST PREPARATION

The Governing Board desires to protect the integrity of student assessments in order to obtain accurate and reliable student achievement data and to ensure accountability to the community and state. Staff and students shall maintain a high level of integrity in the completion and handling of student assessments.

*(cf. 0500 - Accountability)*
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*
*(cf. 5131 - Conduct)*
*(cf. 5131.9 - Academic Honesty)*
*(cf. 6162.5 - Student Assessment)*
*(cf. 6162.51 - State Academic Achievement Tests)*
*(cf. 6162.52 - High School Exit Examination)*

In administering standardized tests, staff shall not engage in any acts that could result in the invalidation of test results, such as:

1. Providing inappropriate test preparation

2. Modifying test administration procedures, except as allowed by law

3. Providing inappropriate assistance to students during test administration

4. Changing or filling in answers on student answer sheets

5. Providing inaccurate data on student header sheets

6. Discouraging or excluding certain students from taking the test

7. Engaging in any other practice to artificially raise student scores without actually improving underlying student achievement

### Appropriate Test Preparation

The Superintendent or designee, principals, and teachers shall not implement any program for the sole purpose of test preparation of students for the statewide assessment system or a particular test used in the statewide assessment system. (Education Code 60611)

The primary preparation for assessments shall be high-quality instruction in the content specified in state and district academic standards. In addition, staff may prepare students for assessments by teaching general test-taking strategies and familiarizing them with item types or the computer-based testing environment used in state assessments.

*(cf. 6011 - Academic Standards)*

**TEST INTEGRITY/TEST PREPARATION** (continued)

**Investigation and Consequences of Testing Irregularities**

Reports of cheating on assessments shall be submitted to the Superintendent or designee. The Superintendent or designee shall immediately investigate with due diligence any reports of inappropriate test preparation or other testing irregularities.

Students found to have cheated on assessments shall be subject to disciplinary procedures in accordance with Board policy and administrative regulations.

*(cf. 5144 - Discipline)*

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

*(cf. 4117.4 - Dismissal)*
*(cf. 4118 - Suspension/Disciplinary Action)*
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

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

*Legal Reference:*
*EDUCATION CODE*
*60611 Inappropriate test preparation*
*60640-60649 California Assessment of Student Performance and Progress*
*60850-60859 California High School Exit Examination*
*GOVERNMENT CODE*
*54957 Complaints against employees, closed session*
*CODE OF REGULATIONS, TITLE 5*
*850-864 California Assessment of Student Performance and Progress*
*1200-1225 California High School Exit Examination, especially:*
*1220 Cheating on the high school exit examination*

*Management Resources:*
*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*
*Guidelines on Academic Preparation for State Assessments, December 2009*
*WEB SITES:*
*CSBA: http://www.csba.org*
*California Department of Education: http://www.cde.ca.gov*
*Smarter Balanced Assessment Consortium: http://www.smarterbalanced.org*

# USE OF COPYRIGHTED MATERIALS

The Governing Board recognizes that district staff and students may use a variety of copyrighted materials in the educational program and other district operations. When such materials have not been purchased by the district for the intended use, the Board expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

*(cf. 1113 - District and School Web Sites)*
*(cf. 1114 - District-Sponsored Social Media)*
*(cf. 4040 - Employee Use of Technology)*
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*
*(cf. 4132/4232/4332 - Publication or Creation of Materials)*
*(cf. 5131.9 - Academic Honesty)*
*(cf. 6141 - Curriculum Development and Evaluation)*
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*
*(cf. 6161.11 - Supplementary Instructional Materials)*
*(cf. 6163.1 - Library Media Centers)*

Any literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual or motion picture, sound, architectural, or other original work shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form.

Before reproducing a copyrighted material for instructional or other district purposes, a staff member shall determine if the material is in the public domain or if the intended use of the material meets the criteria for fair use or another exception pursuant to 17 USC 107-122. If the material is not in the public domain or no recognized exception applies, the staff member shall seek permission of the copyright holder before using the material.

The Superintendent or designee shall inform staff that inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, he/she shall take the safest course and seek permission from the copyright holder to use the material or, if it is impracticable to obtain permission, shall contact the Superintendent or designee for clarification and assistance.

Students shall not copy or distribute copyrighted works to others. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

*(cf. 3300 - Expenditures and Purchases)*
*(cf. 3312 - Contracts)*
*(cf. 6163.4 - Student Use of Technology)*

**USE OF COPYRIGHTED MATERIALS** (continued)

The Superintendent or designee shall ensure that staff and students receive information and training about copyright laws and the penalties for violating such laws.

*(cf. 4131 - Staff Development)*
*(cf. 4231 - Staff Development)*
*(cf. 4331 - Staff Development)*

*Legal Reference:*

*EDUCATION CODE*
*35182 Computer software*
*UNITED STATES CODE, TITLE 17*
*101-122 Subject matter and scope of copyright, especially:*
*102 Definitions*
*106 Copyright protection*
*107 Fair use of copyrighted works*
*110 Limitations on exclusive rights: Exemption of certain performances and displays*
*504 Penalties for copyright infringement*
*COURT DECISIONS*
*Cambridge University Press et al. v. Becker et al. (N.D. Ga. 2012) 863 F.Supp.2d 1190*
*Campbell v. Acuff-Rose Music, Inc., (1994) 510 U.S. 569*
*Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171*

*Management Resources:*

*NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS*
*Copyright Law: Do Schools Need a License to Show a Movie?, School Law Review, July 2010*
*U.S. COPYRIGHT OFFICE PUBLICATIONS*
*Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, rev. 2009*
*Circular 22: How to Investigate the Copyright Status of a Work, rev. 2013*
*Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office, rev. 2012*
*WEB SITES*
*Copyright Society of the USA: http://www.csusa.org*
*National School Boards Association: http://www.nsba.org*
*University of California, Copyright Education:*
*http://copyright.universityofcalifornia.edu/usingcopyrightedworks.html*
*U.S. Copyright Office: http://www.copyright.gov*

## USE OF COPYRIGHTED MATERIALS

Prior to reproducing, distributing, displaying, posting, performing, or otherwise using a copyrighted material for an instructional purpose or in the course of other district business, district staff shall determine whether it is necessary to request permission of the copyright holder. Unless the staff member is reasonably certain that the material is in the public domain or the intended use meets the criteria for an exception specified in 17 USC 107-122 and this administrative regulation, he/she shall either obtain permission from the copyright holder or avoid use of the material. In addition, permission of the copyright holder shall be requested whenever district staff intend to publicly disseminate a copyrighted work, such as by posting on the district or school web site or using another method of communications accessible to the public.

*(cf. 1113 - District and School Web Sites)*
*(cf. 1114 - District-Sponsored Social Media)*
*(cf. 4040 - Employee Use of Technology)*
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*
*(cf. 4132/4232/4332 - Publication or Creation of Materials)*
*(cf. 5131.9 - Academic Honesty)*
*(cf. 6141 - Curriculum Development and Evaluation)*
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*
*(cf. 6161.11 - Supplementary Instructional Materials)*
*(cf. 6163.1 - Library Media Centers)*

Any reproduction or other use of a copyrighted work shall include the copyright notice.

District staff shall not reproduce and distribute copyrighted works of any type in any of the following circumstances:

1. When the copyrighted work is a "consumable" work such as a workbook, standardized test, answer sheet, or similar material

2. To substitute for the purchase of the work

3. To create, replace, or substitute for anthologies or collective works

### Request for Permission to Use Copyrighted Material

As necessary, district staff desiring to use a copyrighted material shall identify and contact the copyright holder to request permission to use the material. The request shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s) or distributor

2. Edition, copyright, and/or production year

3. Exact amount of material to be used, such as the number of lines, pages, or chapters or percentage of the work

**USE OF COPYRIGHTED MATERIALS** (continued)

4. Nature of the use, such as the course in which it will be used, the grade level of the students, the number of students, and the frequency of use

5. How the material will be reproduced and distributed

If the copyright holder requires a fee to grant permission, district staff shall seek approval from the Superintendent or designee prior to incurring the cost.

**Criteria for Fair Use**

In considering whether a copyrighted work may be used without the copyright holder's permission on the grounds that the intended use is "fair use" pursuant to 17 USC 107, including reproduction in copies, phonorecords, or any other reproductive form for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, district staff shall consider all of the following factors: (17 USC 107)

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes

2. The nature of the copyrighted work

3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole

4. The effect of the use upon the potential market for or value of the copyrighted work

Any determination of fair use shall weigh together all the factors specified in items #1-4 above in addition to any applicable guidelines presented in this administrative regulation for specific types of copyrighted works.

**Guidelines for Copying Text**

Staff may reproduce text from a copyrighted work from a printed resource, the Internet, or other source, without permission from the copyright holder, under the following conditions:

1. A single copy of a chapter of a book, article from a periodical or newspaper, short story, short essay, short poem, chart, graph, diagram, drawing, cartoon, or picture may be made by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class.

2. Multiple copies, not to exceed one copy per student in a course, may be made by or for a teacher for classroom use or discussion, provided that:

    a. The amount to be copied does not exceed:

        (1) 250 words for a complete poem or excerpt from a poem

        (2) 2,500 words for a complete article, story, or essay

        (3) 1,000 words or 10 percent of the whole (with a minimum of 500 words), whichever is less, for an excerpt from a larger prose work

        (4) One illustration (e.g., chart, graph, diagram, cartoon, or picture) per book or periodical issue

    b. The copying is for only one course in the school.

**USE OF COPYRIGHTED MATERIALS** (continued)

c. With the exception of newspapers and other news periodicals, not more than one work is copied from the same author per term, not more than three works are copied from the same collective work or periodical volume per term, and there are no more than nine instances of multiple copying per course per term.

d. A delay to request permission from the copyright holder would preclude the most effective instructional use of the material.

**Guidelines for Reproducing Sheet and Recorded Music**

District staff may reproduce sheet music and recorded music without permission from the copyright holder under the following conditions:

1. Emergency copies may be made when purchased copies needed for an imminent performance are not available, provided that replacement copies shall be purchased in due course.

2. Single or multiple copies of excerpts of works may be made for academic purposes other than performances, provided that the excerpt does not constitute an entire performable unit (e.g., a section, movement, or aria), no more than 10 percent of the total work is used, and the number of copies made does not exceed one per student.

3. Printed copies that have been purchased may be edited or simplified provided that the character of the work is not distorted and lyrics are not added or altered.

4. A single copy of a recorded performance by students may be made for evaluation or rehearsal purposes.

5. A single copy of recordings of copyrighted music owned by the district or individual teacher may be made for the purpose of constructing exercises or examinations.

**Guidelines for Performing or Displaying Copyrighted Works**

In the course of face-to-face instruction in a classroom or similar place devoted to instruction, teachers or students may recite, render, play, dance, act, or show a copyrighted work either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, show its images in any sequence or to make the sounds accompanying it audible, provided that: (17 USC 101, 110)

1. The performance or display is given by means of a lawfully obtained copy of the work.

2. The performance or display is made by, at the direction of, or under the actual supervision of a teacher as an integral part of a class session.

3. The performance or display is directly related and of material assistance to the teaching content of the transmission.

4. The transmission is limited to students enrolled in the course or to Governing Board members or employees as part of their official duties or employment.

5. If the work is to be digitally transmitted, the district has applied technological protections that reasonably prevent retention of the work in accessible form for longer than the class session and the unauthorized further dissemination of the work.

**USE OF COPYRIGHTED MATERIALS** (continued)

Any use of a motion picture or other audiovisual work outside the curriculum, such as for entertainment, a school or class reward, or a fundraiser, shall require permission from the copyright holder or a special viewing license.

**Guidelines for Recording Broadcast Programming**

Teachers may make recordings of television programs for use in a classroom for educational purposes under the following conditions:

1. Only programs provided to the public free of charge may be recorded and shown. Any use of programming from paid television services shall require permission of the copyright holder.

2. The recording may be shown only during the first 10 consecutive school days after it is made. It may be used once by an individual teacher in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary.

3. A limited number of copies may be reproduced from each recording to meet the legitimate needs of the teacher. Each copy shall be subject to all the provisions governing the original recording.

4. The recording may be retained for 45 calendar days after it is made and then shall be erased or destroyed. However, after the first 10 consecutive school days, the recording may only be used for purposes of determining whether or not to include the broadcast program in the teaching curriculum. If the teacher decides to keep the program for use in the curriculum, he/she shall request permission from the copyright owner.

5. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered.

**Guidelines for Copying Computer Programs or Software**

District staff shall observe all licensing agreements between vendors and the district, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single computer program or software, the district shall not make multiple copies.

Copies of district-owned software may be made under either of the following conditions: (17 USC 117)

1. The copy is needed as an essential step in using the computer program with a particular machine.

2. The copy is used for archival or "backup" purposes only. This copy may be held only as a file copy and must be destroyed in the event that continued possession of the program ceases to be rightful, unless the copyright owner authorizes its sale, lease, or transfer as part of the sale, lease, or transfer of the original program.