

# **EXHIBIT A**

**February 26, 2020**

# National SD

## Board Policy

### Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0460(a)

### LOCAL CONTROL AND ACCOUNTABILITY PLAN

The Governing Board desires to ensure the most effective use of available funding to improve outcomes for all students. A comprehensive, data-driven planning process shall be used to identify annual goals and specific actions which are aligned with the district budget and facilitate continuous improvement of district practices.

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

*(cf. 0415 - Equity)*

The Board shall adopt a districtwide local control and accountability plan (LCAP), based on the template adopted by the State Board of Education (SBE), that addresses the state priorities in Education Code 52060 and any local priorities adopted by the Board. The LCAP shall be updated on or before July 1 of each year and, like the district budget, shall cover the next fiscal year and two subsequent fiscal years. (Education Code 52060, 52064; 5 CCR 15494-15497)

*(cf. 3100 - Budget)*

The LCAP shall focus on improving outcomes for all students, particularly those who are "unduplicated students" or are part of any numerically significant student subgroup that is at risk of or is underperforming.

*Unduplicated students* include students who are eligible for free or reduced-price meals, English learners, and foster youth, as defined in Education Code 42238.01 for purposes of the local control funding formula (LCFF). (Education Code 42238.02)

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

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

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

*Numerically significant student subgroups* include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students. (Education Code 52052)

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

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

## **LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)**

The Superintendent or designee shall review the school plan for student achievement (SPSA) submitted by each district school pursuant to Education Code 64001 to ensure that the specific actions included in the LCAP are consistent with strategies included in the SPSA. (Education Code 52062)

*(cf. 0420 - School Plans/Site Councils)*

The LCAP shall also be aligned with other district and school plans to the extent possible in order to minimize duplication of effort and provide clear direction for program implementation.

*(cf. 0400 - Comprehensive Plans)*  
*(cf. 0440 - District Technology Plan)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 5030 - Student Wellness)*  
*(cf. 6171 - Title I Programs)*  
*(cf. 7110 - Facilities Master Plan)*

As part of the LCAP adoption and annual update to the LCAP, the Board shall separately adopt an LCFF budget overview for parents/guardians, based on the template developed by the SBE, which includes specified information relating to the district's budget. The budget overview shall be adopted, reviewed, and approved in the same manner as the LCAP and the annual update. (Education Code 52064.1)

Any complaint that the district has not complied with legal requirements pertaining to the LCAP may be filed pursuant to AR 1312.3 - Uniform Complaint Procedures. (Education Code 52075)

*(cf. 1312.3 - Uniform Complaint Procedures)*

### **Plan Development**

The Superintendent or designee shall gather data and information needed for effective and meaningful plan development and present it to the Board and community. Such data and information shall include, but not be limited to, data regarding the number of students in student subgroups, disaggregated data on student achievement levels, and information about current programs and expenditures.

**LOCAL CONTROL AND ACCOUNTABILITY PLAN** (continued)

The Board shall consult with teachers, principals, administrators, other school personnel, employee bargaining units, parents/guardians, and students in developing the LCAP. Consultation with students shall enable unduplicated students and other numerically significant student subgroups to review and comment on LCAP development and may include surveys of students, student forums, student advisory committees, and/or meetings with student government bodies or other groups representing students. (Education Code 52060; 5 CCR 15495)

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 4140/4240/4340 - Bargaining Units)*

*(cf. 6020 - Parent Involvement)*

**Public Review and Input**

The Board shall establish a parent advisory committee to review and comment on the LCAP. The committee shall be composed of a majority of parents/guardians and shall include parents/guardians of unduplicated students as defined above. (Education Code 52063; 5 CCR 15495)

Whenever district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board shall establish an English learner parent advisory committee composed of a majority of parents/guardians of English learners to review and comment on the LCAP. (Education Code 52063; 5 CCR 15495)

The Superintendent or designee shall present the LCAP to the committee(s) before it is submitted to the Board for adoption, and shall respond in writing to comments received from the committee(s). (Education Code 52062)

The Superintendent or designee shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the LCAP. The notification shall be provided using the most efficient method of notification possible, which may not necessarily include producing printed notices or sending notices by mail. All written notifications related to the LCAP shall be provided in the primary language of parents/guardians when required by Education Code 48985. (Education Code 52062)

*(cf. 5145.6 - Parental Notifications)*

As part of the parent/guardian and community engagement process, the district shall solicit input on effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs to enable all students, including English learners and native English speakers, to have access to the core academic content standards and to become proficient in English. (Education Code 305-306)

## **LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)**

The Superintendent or designee shall consult with the administrator(s) of the special education local plan area of which the district is a member to ensure that specific actions for students with disabilities are included in the LCAP and are consistent with strategies included in the annual assurances support plan for the education of students with disabilities. (Education Code 52062)

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

The Board shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the LCAP. The public hearing shall be held at the same meeting as the budget hearing required pursuant to Education Code 42127 and AR 3100 - Budget. (Education Code 42127, 52062)

*(cf. 9320 - Meetings and Notices)*

### **Adoption of the Plan**

The Board shall adopt the LCAP prior to adopting the district budget, but at the same public meeting. This meeting shall be held after the public hearing described above, but not on the same day as the hearing. (Education Code 52062)

The Board may adopt revisions to the LCAP at any time during the period in which the plan is in effect, provided the Board follows the process to adopt the LCAP pursuant to Education Code 52062 and the revisions are adopted in a public meeting. (Education Code 52062)

### **Submission of Plan to County Superintendent of Schools**

Not later than five days after adoption of the LCAP, the district budget, and the budget overview for parents/guardians, the Board shall file the LCAP, the budget, and the budget overview with the County Superintendent of Schools. (Education Code 42127, 52064.1, 52070)

If the County Superintendent sends, by August 15, a written request for clarification of the contents of the LCAP, the Board shall respond in writing within 15 days of the request. If the County Superintendent then submits recommendations for amendments to the LCAP within 15 days of receiving the Board's response, the Board shall consider those recommendations in a public meeting within 15 days of receiving the recommendations. (Education Code 52070)

If the County Superintendent does not approve the district's LCAP, the Board shall accept technical assistance from the County Superintendent focused on revising the plan so that it can be approved. (Education Code 52071)

**LOCAL CONTROL AND ACCOUNTABILITY PLAN** (continued)**Monitoring Progress**

The Superintendent or designee shall report to the Board, at least annually in accordance with the timeline and indicators established by the Superintendent and the Board, regarding the district's progress toward attaining each goal identified in the LCAP. Evaluation shall include, but not be limited to, an assessment of district and school performance reported on the California School Dashboard. Evaluation data shall be used to recommend any necessary revisions to the LCAP.

*(cf. 0500 - Accountability)*

**The Superintendent or designee shall seek and/or accept technical assistance or other intervention that may be required pursuant to Education Code 52071 or 52072 when a school or a numerically significant student subgroup is not making sufficient progress toward the goals in the LCAP.**

*(cf. 0520 - Intervention for Underperforming Schools)*

*(cf. 0520.1 - Comprehensive and Targeted Support and Improvement)*

**Technical Assistance/Intervention**

~~At its discretion, the Board may submit a request to the County Superintendent for technical assistance, including, but not limited to: (Education Code 52071)~~

- ~~1. Assistance in identifying district strengths and weaknesses in regard to state priorities, which includes the review of performance data on the state and local indicators included in the Dashboard and other relevant local data, and in identifying effective, evidence based programs or practices that address any areas of weakness.~~
- ~~2. Assistance from an academic, programmatic, or fiscal expert, or team of experts, in identifying and implementing effective programs and practices that are designed to improve performance in any identified areas of weakness. The district may engage other service providers, including, but not limited to, other school districts, county offices of education, or charter schools, to provide such assistance.~~

~~In the event that the County Superintendent requires the district to receive technical assistance based on one or more numerically significant student subgroups meeting the criteria established pursuant Education Code 52064.5, the Board shall work with the County Superintendent, or another service provider at district expense, and shall provide the County Superintendent timely documentation of the district's completion of the activities listed in items #1-2 above or substantially similar activities. (Education Code 52071)~~

**LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)**

If referred to the California Collaborative for Educational Excellence by either the County Superintendent or the Superintendent of Public Instruction (SPI), the district shall implement the recommendations of that agency in order to accomplish the goals set forth in the district's LCAP. (Education Code 52071, 52074)

If the SPI identifies the district as needing intervention, the district shall cooperate with any action taken by the SPI or any academic advisor appointed by the SPI, which may include one or more of the following: (Education Code 52072)

1. Revision of the district's LCAP
2. Revision of the district's budget in accordance with changes in the LCAP
3. A determination to stay or rescind any district action that would prevent the district from improving outcomes for all student subgroups, provided that action is not required by a collective bargaining agreement

*Legal Reference:*EDUCATION CODE

305-306 English language education

17002 State School Building Lease-Purchase Law, including definition of good repair

33430-33436 Learning Communities for School Success Program; grants for LCAP implementation

41020 Audits

41320-41322 Emergency apportionments

42127 Public hearing on budget adoption

42238.01-42238.07 Local control funding formula

44258.9 County superintendent review of teacher assignment

**47604.33 Submission of reports by charter schools****47606.5 Charter schools, local control and accountability plan**

48985 Parental notices in languages other than English

51210 Course of study for grades 1-6

51220 Course of study for grades 7-12

52052 Numerically significant student subgroups

52059.5 Statewide system of support

52060-52077 Local control and accountability plan

52302 Regional occupational centers and programs

52372.5 Linked learning program

54692 Partnership academies

60119 Sufficiency of textbooks and instructional materials; hearing and resolution

60605.8 California Assessment of Academic Achievement; Academic Content Standards Commission

64001 School plan for student achievement

99300-99301 Early Assessment Program

WELFARE AND INSTITUTIONS CODE

300 Dependent child of the court

CODE OF REGULATIONS, TITLE 5

4600-4670 *Uniform complaint procedures*

15494-15497 *Local control and accountability plan and spending requirements*

UNITED STATES CODE, TITLE 20

**6311 State plan**

6312 *Local educational agency plan*

6826 *Title III funds, local plans*

*Management Resources:*

CSBA PUBLICATIONS

*The California School Dashboard and Small Districts, October 2018*

*Promising Practices for Developing and Implementing LCAPs, Governance Brief, November 2016*

*LCFF Rubrics, Issue 1: What Boards Need to Know About the New Rubrics, Governance Brief, rev. October 2016*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*California School Accounting Manual*

*California School Dashboard*

*LCFF Frequently Asked Questions*

*Local Control and Accountability Plan and Annual Update (LCAP) Template*

*Family Engagement Framework: A Tool for California School Districts, 2014*

*California Career Technical Education Model Curriculum Standards, 2013*

*California Common Core State Standards: English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects, rev. 2013*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS (continued)

*California Common Core State Standards: Mathematics, rev. 2013*

*California English Language Development Standards, 2012*

WEB SITES

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

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

California School Dashboard: <http://www.caschooldashboard.org>

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**Policy Reference UPDATE Service**

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# National SD

## Administrative Regulation

**Philosophy, Goals, Objectives, and Comprehensive Plans**

AR 0460(a)

### **LOCAL CONTROL AND ACCOUNTABILITY PLAN**

#### **Goals and Actions Addressing State and Local Priorities**

The district's local control and accountability plan (LCAP) and annual updates shall include, for the district and each district school: (Education Code 52060)

1. A description of the annual goals established for all students and for each numerically significant subgroup as defined in Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. The LCAP shall identify goals for each of the following state priorities:

- a. The degree to which district teachers are appropriately assigned in accordance with Education Code 44258.9 and fully credentialed in the subject areas and for the students they are teaching; every district student has sufficient access to standards-aligned instructional materials as determined pursuant to Education Code 60119; and school facilities are maintained in good repair as specified in Education Code 17002

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*(cf. 3517 - Facilities Inspection)*

*(cf. 4112.2 - Certification)*

*(cf. 4113 - Assignment)*

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

- b. Implementation of the academic content and performance standards adopted by the State Board of Education (SBE), including how the programs and services will enable English learners to access the Common Core State Standards and the English language development standards for purposes of gaining academic content knowledge and English language proficiency

*(cf. 6011 - Academic Standards)*

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

- c. Parent/guardian involvement and family engagement, including efforts the district makes to seek parent/guardian input in district and school site decision making and how the district will promote parent/guardian participation in programs for unduplicated students, as defined in Education Code 42238.02 and Board policy, and students with disabilities

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

*(cf. 6020 - Parent Involvement)*

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

- d. Student achievement, as measured by all of the following as applicable:

- (1) Statewide assessments of student achievement
- (2) The percentage of students who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University; ~~or~~ **have successfully completed** career technical education (CTE) sequences or programs of study that align with SBE-approved career technical education standards and frameworks, including, but not limited to, those described in Education Code 52302, 52372.5, or 54692; **and have successfully completed both college entrance courses and CTE sequences or programs**
- (3) The percentage of English learners who make progress toward English proficiency as measured by the SBE-certified assessment of English proficiency
- (4) The English learner reclassification rate
- (5) The percentage of students who have passed an Advanced Placement examination with a score of 3 or higher
- (6) The percentage of students who demonstrate college preparedness in the Early Assessment Program pursuant to Education Code 99300-99301

*(cf. 0500 - Accountability)*

*(cf. 6141.5 - Advanced Placement)*

*(cf. 6162.5 - Student Assessment)*

*(cf. 6162.51 - State Academic Achievement Tests)*

*(cf. 6178 - Career Technical Education)*

- e. Student engagement, as measured by school attendance rates, chronic absenteeism rates, middle school dropout rates, high school dropout rates, and high school graduation rates, as applicable

*(cf. 5113.1 - Chronic Absence and Truancy)*

*(cf. 5147 - Dropout Prevention)*

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

**LOCAL CONTROL AND ACCOUNTABILITY PLAN** (continued)

- f. School climate, as measured by student suspension and expulsion rates and other local measures, including surveys of students, parents/guardians, and teachers on the sense of safety and school connectedness, as applicable

*(cf. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

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

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

- g. The extent to which students have access to and are enrolled in a broad course of study that includes all of the subject areas described in Education Code 51210 and 51220, as applicable, including the programs and services developed and provided to unduplicated students and students with disabilities, and the programs and services that are provided to benefit these students as a result of supplemental and concentration grant funding pursuant to Education Code 42238.02 and 42238.03

*(cf. 6143 - Courses of Study)*

*(cf. 6159 - Individualized Education Program)*

- h. Student outcomes, if available, in the subject areas described in Education Code 51210 and 51220, as applicable

- 2. Any goals identified for any local priorities established by the Board.

*(cf. 0200 - Goals for the School District)*

- 3. A description of the specific actions the district will take during each year of the LCAP to achieve the identified goals, including the enumeration of any specific actions necessary for that year to correct any deficiencies in regard to the state and local priorities specified in items #1-2 above. Such actions shall not supersede provisions of existing collective bargaining agreements within the district.

For purposes of the descriptions required by items #1-3 above, the Board may consider qualitative information, including, but not limited to, findings that result from any school quality review conducted pursuant to Education Code 52052 or any other reviews. (Education Code 52060)

For any local priorities addressed in the LCAP, the Board and Superintendent or designee shall identify and include in the LCAP the method for measuring the district's progress toward achieving those goals. (Education Code 52060)

To the extent practicable, data reported in the LCAP shall be reported in a manner consistent with how information is reported on the California School Dashboard. (Education Code 52060)

**LOCAL CONTROL AND ACCOUNTABILITY PLAN** (continued)

**Increase or Improvement in Services for Unduplicated Students**

The LCAP shall demonstrate how the district will increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students. (5 CCR 15494-15496)

When the district expends supplemental and/or concentration grant funds on a districtwide or schoolwide basis during the year for which the LCAP is adopted, the district's LCAP shall: (5 CCR 15496)

1. Identify those services that are being funded and provided on a districtwide or schoolwide basis
2. Describe how such services are principally directed towards, and are effective in, meeting the district's goals for unduplicated students in the state priority areas and any local priority areas
3. If the enrollment of unduplicated students is less than 55 percent of district enrollment or less than 40 percent of school enrollment, describe how these services are the most effective use of the funds to meet the district's goals for its unduplicated students in the state priority areas and any local priority areas. The description shall provide the basis for this determination, including, but not limited to, any alternatives considered and any supporting research, experiences, or educational theory.

**Availability of the Plan**

The Superintendent or designee shall prominently post the LCAP, any updates or revisions to the LCAP, and the LCCFF budget overview for parents/guardians on the homepage of the district's web site. (Education Code 52064.1, 52065)

*(cf. 1113 - District and School Web Sites)*

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# National SD

## Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0520(a)

### INTERVENTION FOR UNDERPERFORMING SCHOOLS

The Governing Board desires that all district schools provide a high-quality educational program that maximizes the achievement of each district student. The district shall provide assistance to schools to support the continuous improvement of student performance within the priorities identified in the district's local control and accountability plan (LCAP) and to enhance the achievement of low-performing student subgroups.

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

*(cf. 0500 - Accountability)*

At its discretion, the Board may submit a request to the County Superintendent of Schools for technical assistance regarding the following: (Education Code 52071)

1. Identifying the district's strengths and weaknesses in regard to state priorities addressed in the LCAP, including collaboration between the district and County Superintendent to review performance data on the state and local indicators included in the California School Dashboard and other relevant local data and to identify effective, evidence-based programs or practices that address any areas of weakness
2. Securing assistance from an academic, programmatic, or fiscal expert, or team of experts, to identify and implement effective programs and practices that are designed to improve performance in any areas of weakness identified by the district

In the event that the County Superintendent requires the district to receive technical assistance based on a determination that one or more numerically significant student subgroups in a district school meet the performance criteria established pursuant Education Code 52064.5, the Board shall work with the County Superintendent and shall provide the County Superintendent timely documentation of the district's completion of the activities listed in items #1-2 above or substantially similar activities. (Education Code 52071)

With the approval of the County Superintendent, the district may, at its own expense, engage another service provider, including, but not limited to, another school district, the county office of education, or a charter school, to act as a partner to the district in filling the district's need for technical assistance. (Education Code 52071)

If referred to the California Collaborative for Educational Excellence by either the County Superintendent or the Superintendent of Public Instruction (SPI), the district shall implement the recommendations of that agency in order to accomplish the goals set forth in the district's LCAP. (Education Code 52071, 52074)

## INTERVENTION FOR UNDERPERFORMING SCHOOLS

If the SPI identifies the district as needing intervention, the district shall cooperate with any action taken by the SPI or any academic advisor appointed by the SPI, which may include one or more of the following: (Education Code 52072)

1. Revision of the district's LCAP
2. Revision of the district's budget, in conjunction with changes in the LCAP, that would allow the district to improve the outcomes for all student subgroups in regard to state and local priorities
3. A determination to stay or rescind any district action that would prevent the district from improving outcomes for all student subgroups, provided that action is not required by a collective bargaining agreement

In addition, any school identified by the California Department of Education for comprehensive support and improvement, targeted support and improvement, or additional targeted support and improvement shall develop and implement a school plan in accordance with 20 USC 6311. Such schools may be required to partner with an external entity, agency, or individual with demonstrated expertise and capacity to identify and implement more rigorous interventions.

(cf. 0420 - School Plans/Site Councils)

(cf. 0520.1 - Comprehensive and Targeted Support and Improvement)

### Legal Reference:

#### EDUCATION CODE

52052 Numerically significant student subgroups

52059.5 Statewide system of support

52060-52077 Local control and accountability plan

60640-60649 California Assessment of Student Performance and Progress

64001 School plan for student achievement

#### UNITED STATES CODE, TITLE 20

6311-6322 Improving basic programs for disadvantaged students, especially:

6311 State plans

### Management Resources:

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Dashboard

CSI/TSI/ATSI Frequently Asked Questions

California ESSA Consolidated State Plan, 2017

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments, 2016

#### WEB SITES

## INTERVENTION FOR UNDERPERFORMING SCHOOLS

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

*California School Dashboard: <http://www.caschooldashboard.org>*

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

# National SD

## Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0520.1(a)

### COMPREHENSIVE AND TARGETED SUPPORT AND IMPROVEMENT

The Governing Board is committed to enabling all district students to meet state academic achievement standards. The district shall provide support and assistance to increase student achievement in all district schools, especially any school that has been identified by the California Department of Education (CDE) as in need of comprehensive support and improvement (CSI), targeted support and improvement (TSI), or additional targeted support and improvement (ATSI).

*(cf. 0500 - Accountability)*

*(cf. 0520 - Intervention for Underperforming Schools)*

*(cf. 6011 - Academic Standards)*

*(cf. 6171 - Title I Programs)*

When any school is identified for CSI, TSI, or ATSI, the Superintendent or designee shall notify the school community, including the principal, teachers, and parent/guardians of students of the school, of the identification and, if applicable, shall inform the school of the student subgroup(s) which are consistently underperforming at the school.

#### School Plan

Upon receiving notification from CDE that a district school has been identified as eligible for CSI, TSI, or ATSI, the district shall, in partnership with principals, other school leaders, teachers, and parents/guardians, develop and implement a plan to improve student outcomes at the school. The plan shall: (20 USC 6311)

1. Be based on all state indicators in the California School Dashboard, including student performance against state-determined long-term goals, except that any school subject to the state's Dashboard Alternative School Status that has fewer than 100 students may focus on the state indicators that are more applicable to the nature of its program
2. Be based on a school-level needs assessment
3. Include evidence-based interventions
4. If the school is identified for CSI or ATSI, identify resource inequities, which may include a review of district and school-level budgets, to be addressed through implementation of the plan

*(cf. 0400 - Comprehensive Plans)*

**COMPREHENSIVE AND TARGETED SUPPORT AND IMPROVEMENT (continued)**

**The school plan for student achievement developed pursuant to Education Code 64001 may serve as the school improvement plan required for CSI, TSI, or ATSI, provided that the plan meets the requirements of 20 USC 6311. (Education Code 64001)**

*(cf. 0420 - School Plans/Site Councils)*

**The school improvement plan shall be submitted to the Board for approval. (20 USC 6311)**

**If any district school is identified for CSI, the district's local control and accountability plan shall include descriptions of how the district provides support to CSI school(s) in developing the CSI plan and how the district will monitor and evaluate the implementation and effectiveness of the CSI plan to support student and school improvement.**

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

**Monitoring and Intervention**

**The Board and the Superintendent or designee shall regularly review the performance of each school identified for CSI, TSI, or ATSI.**

**After two years of implementing the school plan, if any such school has been unsuccessful in improving student outcomes to a level that exceeds initial eligibility criteria, the district shall identify the problem and take additional action as necessary.**

**If a school identified for CSI fails to improve student outcomes within four years to a level that exceeds the CSI eligibility criteria, it shall be subject to more rigorous interventions that include, but are not limited to, partnering with an external entity, agency, or individual with demonstrated expertise and capacity to:**

- 1. Conduct a new needs assessment that focuses on systemic factors and conduct a root cause analysis that identifies gaps between current conditions and desired conditions in student performance and progress**
- 2. Use the results of the analysis along with stakeholder feedback to develop a new improvement plan that includes:**
  - a. A prioritized set of evidence-based interventions and strategies**
  - b. A program evaluation component with support to conduct ongoing performance and progress monitoring**

**COMPREHENSIVE AND TARGETED SUPPORT AND IMPROVEMENT (continued)**

**Legal Reference:**

**EDUCATION CODE**

*52052 Numerically significant student subgroups*

*52059.5 Statewide system of support*

*52060-52077 Local control and accountability plan*

*64001 School plan for student achievement*

**UNITED STATES CODE, TITLE 20**

*6311-6322 Improving basic programs for disadvantaged students, especially:*

*6311 State plans*

*6313 Eligibility of schools and school attendance areas; funding allocation*

**Management Resources:**

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

*California School Dashboard*

*CSI/TSI/ATSI Frequently Asked Questions*

*California ESSA Consolidated State Plan, 2017*

**U.S. DEPARTMENT OF EDUCATION PUBLICATIONS**

*Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments, 2016*

**WEB SITES**

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

*California School Dashboard: <http://www.caschooldashboard.org>*

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

# National SD

## Board Policy

Community Relations

BP 1431(a)

### WAIVERS

The Governing Board recognizes that ~~strict compliance with the law may sometimes hinder the district's ability to provide its students with an effective, well rounded educational program.~~ **circumstances may arise in the operation of the district that require a waiver from state law or regulation.** When it is in the interest of district students, the Board may request that the State Board of Education (SBE) waive any provision of state ~~or federal~~ law or regulation which ~~it~~ **SBE** has authority to waive pursuant to Education Code 33050.

Any waiver request to be submitted to ~~the~~ SBE shall first be approved by the Board. The Superintendent or designee shall ensure that each proposed waiver request includes all information necessary for the Board to analyze the need for the waiver and make an informed decision.

~~Prior to presenting the proposed request for Board approval, the Superintendent or designee shall consult with and obtain the approval of any advisory committee or site council when required by law.~~ **If the proposed waiver request affects a program that requires the existence of a school site council, the Superintendent or designee shall obtain the school site council's approval of the request before presenting it to the Board. As appropriate, other councils or advisory committees, including bilingual advisory committees, shall be provided adequate opportunity to review a proposed waiver request, and the request shall include a written summary of any objections to the request by the councils or advisory committees. (Education Code 33051)**

*(cf. 0420 - School Plans/Site Councils)*  
*(cf. 1220 - Citizen Advisory Committees)*

In addition, the Superintendent or designee shall ~~involve~~ **consult with** the exclusive representative of district employees in the development of the waiver request, and shall include in the request the exclusive representative's position regarding the waiver. (Education Code 33050, **33051**)

*(cf. 4140/4240/4340 - Bargaining Units)*

**A request for a waiver related to a regional occupational center or program operated by a joint powers agency shall be submitted as a joint waiver request with other participating school districts upon approval of a unanimous vote of the governing board of the joint powers agency. (Education Code 33050)**

*(cf. 6178.2 - Regional Occupational Center/Program)*

To receive public testimony on each **proposal for a** waiver request ~~proposal~~, the Board shall hold a properly noticed public hearing during a Board meeting. (Education Code 33050)

**WAIVERS** (continued)

The notice, which shall state the time, date, location, and subject of the public hearing **and invite public testimony**, may be printed in a newspaper of general circulation **and/or** posted at each school and three public places in the district.

(cf. 9320 - Meetings and Notices)

**If the district determines that a waiver is needed for more than one year, the Board shall reapply to SBE.** When the **district Board** has requested and received the same general waiver from ~~the~~ SBE for two consecutive years, the Board **is not required** to reapply annually **if provided that** the information contained on the request remains current, ~~-~~ **However, the district shall apply annually** for the renewal of any waiver regarding teacher credentialing. (Education Code 33051)

*Legal Reference:*

EDUCATION CODE

~~5000-5033~~ *Governing board elections*

~~17291~~ *Portable school buildings*

~~33050-33053~~ *General waiver authority*

~~41381~~ *Minimum school day*

~~41600-41854~~ *Computation of allowances*

~~41920-42842~~ *Budget requirements; local taxation by school districts*

~~44681-44689~~ *Administrator Training and Evaluation*

~~45108.7~~ *Maximum number of senior management positions*

~~48660-48666~~ *Community day schools*

~~48800~~ *Attendance at community college*

~~49550-49560~~ *Meals for needy students*

~~51224.5~~ *Algebra instruction*

~~51745.6~~ ~~51747.3~~ *Charter school independent study ratio funding*

~~52160-52178~~ *Bilingual Bicultural Education Act of 1976*

~~56000-56867~~ *Special education programs*

CODE OF REGULATIONS, TITLE 5

~~3945~~ *Cooperative programs*

~~11960~~ *Charter school attendance*

~~11963.4~~ *Charter school percentage funding*

~~13017~~ *Waivers, compensatory education New Careers in Education Program*

~~13044~~ *Waivers, compensatory education Professional Development and Program Improvement Programs*

**WAIVERS** (continued)

~~UNITED STATES CODE, TITLE 20~~  
~~1400-1482 Individuals with Disabilities Education Act~~  
~~7115 Student Support and Academic Enrichment Grants~~

*Management Resources:*

WEB SITES

California Department of Education, Waiver Office: <http://www.cde.ca.gov/re/lr/wr>  
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

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# National SD

## Board Policy

Administration

BP 2121(a)

### SUPERINTENDENT'S CONTRACT

The Governing Board believes that the Superintendent's employment contract should outline the framework through which the Board and Superintendent ~~are to~~ **will** work together **as a governance team** to achieve district goals and objectives. When approving the Superintendent's employment contract, the Board shall consider the ~~need for~~ **value of** stability in district administration, ~~and shall ensure~~ the best use of district resources, **and the Board's duty to ensure accountability to the public for the performance of the district's schools.**

*(cf. 0200 - Goals for the School District)*

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

*(cf. 2120 - Superintendent Recruitment and Selection)*

*(cf. 4312.1 - Contracts)*

*(cf. 9000 - Role of the Board)*

The contract shall be reviewed by the district's legal counsel and may include the following:

1. Term of the contract, which shall be for no more than four years pursuant to Education Code 35031
2. Length of the work year and hours of work
3. Salary, health and welfare benefits, and other compensation for the position, **including a statement that any subsequent increase in the Superintendent's salary shall be at the sole discretion of the Board**

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

4. Reimbursement of work-related expenses, including mileage reimbursement, consistent with Board policies, regulations, and guidelines applicable to other professional administrative staff

*(cf. 3350 - Travel Expenses)*

## **SUPERINTENDENT'S CONTRACT** (continued)

The contract may also address payment for professional dues and activities, the district's provision of cell phones or other technological devices, and the Superintendent's use of his/her a personal vehicle.

*(cf. 4040 - Employee Use of Technology)*

### **5. Vacation, illness and injury leave, and personal leaves**

*(cf. 4161/4261/4361 - Leaves)*

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*

*(cf. 4161.2/4261.2/4361.2 - Personal Leaves)*

*(cf. 4161.5/4261.5/4361.5 - Military Leave)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

## **6. Professional development**

### **6.7. General duties and responsibilities of the position**

*(cf. 2110 - Superintendent Responsibilities and Duties)*

### **7.8. Criteria, process, and procedure for annual evaluation of the Superintendent**

*(cf. 2140 - Evaluation of the Superintendent)*

~~8. A statement that any subsequent increase in the Superintendent's salary shall be at the sole discretion of the Board~~

9. A statement that there shall be no automatic renewal or extension of the contract, although the Board can enter into a new contract with the Superintendent prior to the expiration of the existing contract

10. Timeline for providing written notice to the Superintendent if the Board does not wish to enter into a new contract, which shall be at least 45 calendar days in advance of the expiration of the term of the contract pursuant to Education Code 35031, and the responsibility of the Superintendent to remind the Board in writing and in a timely manner of the requirement to give notice

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

**SUPERINTENDENT'S CONTRACT** (continued)

11. Conditions and process for termination of the contract, including the maximum cash settlement that the Superintendent may receive if the contract is terminated prior to its expiration date
12. Matters related to liability and indemnification against demands, claims, suits, actions, and legal proceedings brought against the Superintendent in ~~his/her~~ **the Superintendent's** official capacity in the performance of **employment-related** duties ~~related to his/her employment~~

The Board may deliberate about terms of the contract in closed session at a regular meeting. However, discussions regarding the salary, salary schedule, or other compensation may occur in the closed session of a regular meeting only between the Board and its designated representative(s), as permitted under Government Code 54957.6 (the "labor exception"), for the purpose of reviewing the Board's position and/or instructing the designated representative(s) prior to or during bona fide negotiations with the current or prospective Superintendent. Such deliberations shall not be held during a special meeting. (Government Code 54956, 54957, 54957.6)

The Board may consult with district legal counsel prior to holding a closed session with the designated representative(s) to discuss compensation to be paid to the current or prospective Superintendent.

*(cf. 9320 - Meetings and Notices)*  
*(cf. 9321 - Closed Session ~~Purposes and Agendas~~)*  
*(cf. 9321.1 - Closed Session ~~Actions and Reports~~)*

Terms of the contract shall remain confidential until the ratification process commences.

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

The Board shall take final action on the Superintendent's contract during an open session of a regularly scheduled Board meeting, and that action shall be reflected in the Board's minutes. At that meeting, prior to taking action, the Board shall orally report a summary of the recommendation for the final action on the Superintendent's salary or compensation in the form of fringe benefits. (Government Code 3511.1, 53262, 54953)

Copies of the contract and other public records created or received in the process of developing the recommendation related to the Superintendent's salary, benefits, and other compensation shall be available to the public upon request. (Government Code 53262, 54953, ~~54957.6~~)

*(cf. 1340 - Access to District Records)*  
*(cf. 3580 - District Records)*

## **SUPERINTENDENT'S CONTRACT** (continued)

### **Termination of Contract**

Prior to the expiration of the contract, the Board may terminate the Superintendent's employment contract in accordance with law and applicable contract provisions.

*(cf. 4117.5/4217.5/4317.5 - Termination Agreements)*

In such an event, **any the maximum** cash settlement that the Superintendent may receive upon termination of the contract shall not exceed **his/her the Superintendent's** monthly salary multiplied by the number of months left on the contract or, **if the unexpired term of the contract is more than 18 months and the contract was executed prior to January 1, 2016, no greater than the Superintendent's monthly salary multiplied by 18. For any contract executed on or after January 1, 2016, any cash settlement shall not exceed** the Superintendent's monthly salary multiplied by 12, **whichever is less.** (Government Code 53260)

The cash settlement shall not include any noncash items other than health benefits, which may be continued for the same duration of time as covered in the settlement or until the Superintendent finds other employment, whichever occurs first. (Government Code 53260, 53261)

However, when the termination of the Superintendent's contract is based upon the Board's belief and subsequent confirmation through an independent audit that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, no cash or noncash settlement of any amount shall be provided. (Government Code 53260)

In addition, if the Superintendent is convicted of a crime involving an abuse of **his/her** office or position, **he/she the Superintendent** shall reimburse the district for payments **he/she receives received** as paid leave salary pending investigation or as cash settlement upon **his/her** termination, and for any funds expended by the district in **his/her defense defending the Superintendent** against a crime involving **his/her the Superintendent's** office or position. (Government Code 53243-53243.4, 53260)

*Legal Reference: (see next page)*

## SUPERINTENDENT'S CONTRACT (continued)

### Legal Reference:

#### EDUCATION CODE

35031 *Term of employment*

41325-~~41329.3~~ **41328** *Conditions of emergency apportionment*

#### GOVERNMENT CODE

3511.1-3511.2 *Local agency executives*

6250-6270 *California Public Records Act*

53243-53243.4 *Abuse of office*

53260-53264 *Employment contracts*

54953 *Oral summary of recommended salary and benefits of superintendent*

54954 *Time and place of regular meetings*

54956 *Special meetings*

54957 *Closed session personnel matters*

54957.1 *Closed session, public report of action taken*

54957.6 *Closed sessions regarding employee matters*

#### UNITED STATES CODE, TITLE 26

105 *Self-insured medical reimbursement plan; definition of highly compensated individual*

#### UNITED STATES CODE, TITLE 42

300gg-16 *Group health plan; nondiscrimination in favor of highly compensated individuals*

#### CODE OF FEDERAL REGULATIONS, TITLE 26

1.105-11 *Self-insured medical reimbursement plan*

#### COURT DECISIONS

*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947

#### ATTORNEY GENERAL OPINIONS

57 *Ops. Cal. Atty. Gen.* 209 (1974)

### Management Resources:

#### CSBA PUBLICATIONS

*Superintendent Contract Template*, ~~2015~~

#### ATTORNEY GENERAL PUBLICATIONS

*The Brown Act: Open Meetings for Local Legislative Bodies*, 2003

#### WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

California Office of the Attorney General: <https://oag.ca.gov>

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# National SD

## Board Policy

Business and Noninstructional Operations

BP 3515(a)

### CAMPUS SECURITY

The Governing Board is committed to providing a school environment that promotes the safety of students, **employees staff**, and visitors to school grounds. The Board also recognizes the importance of protecting district property, facilities, and equipment from vandalism and theft.

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

*(cf. 5131.5 - Vandalism and Graffiti)*

*(cf. 5142 - Safety)*

The Superintendent or designee shall develop campus security procedures, which **are consistent with the goals and objectives of** **may be included in** the district's comprehensive safety plan and/or site-level safety plans. Such procedures shall be regularly reviewed to reflect changed circumstances and to assess their effectiveness in achieving safe school objectives.

*(cf. 0450 - Comprehensive Safety Plan)*

#### Legal Reference:

##### EDUCATION CODE

**17070.10-17079.30 Leroy F. Greene School Facilities Act, especially:**

**17075.50 Classroom security locks, new construction projects**

**17583 Classroom security locks, modernization projects**

32020 Access gates

32211 Threatened disruption or interference with classes

32280-~~32288~~ **32289** School safety plans

35160 Authority of governing boards

35160.1 Broad authority of school districts

38000-38005 Security ~~patrols~~ **departments**

49050-49051 Searches by school employees

49060-49079 Student records

##### PENAL CODE

469 Unauthorized making, duplicating or possession of key to public building

~~626-626.10~~ **626.11** Disruption of schools

##### CALIFORNIA CODE OF REGULATIONS, TITLE 24

**1010.1.9 Door operations**

**1010.1.11 Lockable doors from the inside**

##### CALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

##### UNITED STATES CODE, TITLE 20

**CAMPUS SECURITY (continued)**

1232g *Family Educational Rights and Privacy Act*  
**CODE OF FEDERAL REGULATIONS, TITLE 34**  
**99.3 Definition of education records**

**COURT DECISIONS**

**Brannum v. Overton County School Board (2008) 516 F. 3d 489**

New Jersey v. T.L.O. (1985) 469 U.S. 325

**ATTORNEY GENERAL OPINIONS**

83 Ops.Cal.Atty.Gen. 257 (2000)

75 Ops.Cal.Atty.Gen. 155 (1992)

*Management Resources:*

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

Safe Schools: A Planning Guide for Action, 2002

**NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS**

The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999 rev. 2005

**U.S. DEPARTMENT OF EDUCATION PUBLICATIONS**

**FAQs on Photos and Videos under FERPA**

**WEB SITES**

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

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/ls/ss>

National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

National School Safety Center: <http://www.schoolsafety.us>

U.S. Department of Education, Protecting Student Privacy: <https://studentprivacy.ed.gov>

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# National SD

## Administrative Regulation

Business and Noninstructional Operations

AR 3515(a)

### CAMPUS SECURITY

The Superintendent or designee shall ~~ensure that the district's~~ **develop a campus security plan which contributes to a positive school climate, fosters social and emotional learning and student well-being, and** includes strategies to:

1. Secure the campus perimeter and school facilities in order to prevent criminal activity

These strategies include a risk management analysis of each campus' security system, lighting system, and fencing. Procedures to ensure unobstructed views and eliminate blind spots caused by doorways and landscaping shall also be considered. In addition, parking lot design may be studied, including methods to discourage through traffic.

2. Secure buildings **and interior spaces** from outsiders and discourage trespassing

These strategies may include **installing locks**, requiring visitor registration, **providing** staff and student identification tags, and patrolling ~~of~~ places used for congregating and loitering.

*(cf. 1250 - Visitors/Outsiders)*

*(cf. 3515.2 - Disruptions)*

*(cf. 5112.5 - Open/Closed Campus)*

3. Discourage vandalism and graffiti

These strategies may include plans to immediately cover graffiti ~~as well as~~ **and implement** campus beautification projects ~~and shall also include students and the community in these projects.~~

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

*(cf. 5131.5 - Vandalism and Graffiti)*

*(cf. 5137 - Positive School Climate)*

***(cf. 6142.4 - Service Learning/Community Service Classes)***

4. Control access to keys and other school inventory

*(cf. 3440 - Inventories)*

AR 3515(b)

## CAMPUS SECURITY (continued)

### 5. Detect and intervene with school crime

These strategies may include ~~the creation of~~ **creating** a school watch program, **increasing adult presence and supervision**, **establishing** an anonymous crime reporting system, ~~analysis of~~ **analyzing** school crime incidents, and ~~collaboration~~ **collaborating** with local law enforcement agencies, including providing for law enforcement presence.

*(cf. 3515.3 - District Police/Security Department)*

*(cf. 3515.7 - Firearms on School Grounds)*

*(cf. 3516.2 - Bomb Threats)*

*(cf. 5116.1 - Intradistrict Open Enrollment)*

*(cf. 5116.2 - Involuntary Student Transfers)*

*(cf. 5131.2 - Bullying)*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*(cf. 5141.52 - Suicide Prevention)*

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 6164.2 - Guidance/Counseling Services)*

All staff shall receive training in building and grounds security procedures **and emergency response**.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

### **Locks**

**All state-funded new construction and modernization projects shall include locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside. Student restrooms and doors that lock from the outside at all times are not required to have locks that can be locked from the inside. (Education Code 17075.50, 17583; 24 CCR 1010.1.9, 1010.1.11)**

### **Keys**

**All keys used in a school shall be the responsibility of the principal or designee.** Keys shall be issued only to ~~those~~ **authorized** employees who regularly need a key in order to carry out ~~normal activities of their position~~ **their job responsibilities**.

The Director of Maintenance shall create a key control system with a record of each key assigned and room(s) or building(s) which the key opens.

**CAMPUS SECURITY** (continued)

Keys ~~shall be used only by authorized employees and~~ shall never be loaned to students, ~~parents/guardians, or volunteers, nor shall the~~ The master key ~~shall not ever~~ be loaned.

The **Any** person issued a key shall be responsible for its safekeeping. The duplication of school keys is prohibited. If a key is lost, the person responsible shall immediately report the loss to the principal or designee and shall pay for a replacement key.

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# National SD

## Board Policy

Business and Noninstructional Operations

BP 3600(a)

### CONSULTANTS

The Governing Board authorizes the use of consultants **and other independent contractors** to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as **consultants independent contractors** may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

*(cf. 3551 - Food Service Operations/Cafeteria Fund)*

As part of the contract process, the Superintendent or designee shall determine, **in accordance with Internal Revenue Service guidelines**, that the **consultant individual, firm, or organization** is properly classified as an independent contractor. **A person, firm, or organization shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2750.3)**

- 1. The person or entity is free from the control and direction of the district in connection with the performance of the work.**
- 2. The person or entity is performing work that is outside the usual course of the district providing educational services.**
- 3. The person or entity is customarily engaged in an independently established trade, occupation, or business of the same nature as the work to be performed.**

**Specific statutory exceptions to this analysis for the determination of whether a person, firm, or organization is an independent contractor may apply. (Labor Code 2750.3)**

**District employees who perform extra-duty consultant services shall not be retained as independent contractors. They shall be considered employees for all purposes, even if the additional services are not related to their regular duties.**

All consultant contracts shall be brought to the Board for approval.

*(cf. 3311 - Bids)*

*(cf. 3312 - Contracts)*

*(cf. 4132/4232/4332 - Publication or Creation of Materials)*

**CONSULTANTS** (continued)

The district shall not contract for consulting services that can be performed without charge by a public agency or official unless these services are unavailable from the public source for reasons beyond the district's control.

All qualified ~~firms or resource persons~~ **independent contractors** shall be accorded equal opportunity for consultant contracts regardless of **actual or perceived** race, ~~creed,~~ color, gender, national or ethnic origin, age or disability, **national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics.** (Education Code 220; Government Code 12940)

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

*(cf. 0415 - Equity)*

*(cf. 3311 - Bids)*

*(cf. 3551 - Food Service Operations/Cafeteria Fund)*

*(cf. 4030 - Nondiscrimination in Employment)*

Independent contractors ~~applying for a consultant contract~~ shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend ~~the consultant's employment~~ **approval of the contract.**

**Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)**

*(cf. 9270 - Conflict of Interest)*

When employees of a public university, county office of education, or other public agency serve as consultants or ~~resource persons~~ **independent contractors in other capacities** for the district, they shall certify as part of the ~~consultant~~ agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for ~~this the~~ district.

**The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of**

**CONSULTANTS** (continued)

**a district employee by an independent contractor. Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)**

**(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)**

*Legal Reference:*

EDUCATION CODE

**220 Prohibition of discrimination**

10400-10407 Cooperative improvement programs

17596 Limit on continuing contracts

35010 Control of districts; prescription and enforcement of rules

35172 Promotional activities

35204 Contract with attorney

44925 Part-time readers employed as independent contractors

45103 Classified service in districts not incorporating the merit system

45103.5 Contracts for food service consulting services

45134-45135 Employment of retired classified employee

45256 Merit system districts; classified service; positions established for professional experts on a temporary basis

GOVERNMENT CODE

**12940 Unlawful employment practices**

53060 Contract for special services and advice

**82019 Designated employee**

**87302 Conflict of interest code**

LABOR CODE

**2750.3 ABC three-part test: employees and independent contractors**

UNEMPLOYMENT INSURANCE CODE

**606.5 Determination of employment status**

**621 Employer and employee defined**

CODE OF REGULATIONS, TITLE 2

**18700.3 Consultant**

COURT DECISIONS

**Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5<sup>th</sup> 903**

**S.G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal. 3d 341**

Management Resources:

INTERNAL REVENUE SERVICE PUBLICATIONS

**15 A Employer's Supplemental Tax Guide**

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# National SD

## Administrative Regulation

All Personnel

AR 4030(a)

### NONDISCRIMINATION IN EMPLOYMENT

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or **other** person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 1240 - Volunteer Assistance)*  
*(cf. 3312 - Contracts)*  
*(cf. 3600 - Consultants)*  
*(cf. 4032 - Reasonable Accommodation)*

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to **coordinate** **organize and manage** the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

**Assistant Superintendent of Human Resources**

(position title)

1500 N Avenue, National City, CA 91950

(address)

619-336-7722

(telephone number)

(email)

## NONDISCRIMINATION IN EMPLOYMENT (continued)

### Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically **in a conspicuous location** on computers ~~in a conspicuous location, the~~ **for employee use, up-to-date** California Department of Fair Employment and Housing (DFEH) posters ~~in regard to~~ **on the prohibition of** workplace discrimination and harassment, ~~and~~ **the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth** (Government Code 12950; **2 CCR 11013, 11023, 11049**)

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
  - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

3. Disseminate the district's nondiscrimination policy **and administrative regulation** to all employees by one or more of the following methods: (2 CCR 11023)
  - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending the policy a copy via email with an acknowledgment return form
  - c. Posting the policy a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
  - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
  - e. Any other way that ensures employees receive and understand the policy

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
5. Provide training **to employees, volunteers, and interns** regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

## NONDISCRIMINATION IN EMPLOYMENT (continued)

The district may also provide bystander intervention training to employees ~~that~~ **which** includes information and practical guidance on how to recognize potentially problematic behaviors and **which may** motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce **(2 CCR 11023)**

## Complaint Procedure

## NONDISCRIMINATION IN EMPLOYMENT (continued)

Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The ~~employee's~~ **complainant's** direct supervisor may be bypassed in filing a complaint ~~where~~ **when** the supervisor is the subject of the complaint.

The complainant may ~~file a written complaint in accordance with this procedure or may~~ first attempt to resolve the situation informally with the ~~employee's~~ **complainant's** supervisor **before filing a written complaint.**

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, **other any available** evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be **revealed disclosed** as necessary to conduct an effective investigation.

*(cf. 3580 - District Records)*

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

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

AR 4030(f)

## **NONDISCRIMINATION IN EMPLOYMENT** (continued)

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed **in order** to ~~ensure that~~ **prevent** further incidents ~~are prevented~~. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 9321 - Closed Session ~~Purposes and Agendas~~)

AR 4030(g)

## **NONDISCRIMINATION IN EMPLOYMENT** (continued)

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either DFEH or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. ~~To file a valid~~ **For filing a** complaint with DFEH **alleging a violation of Government Code 12940-12952**, within ~~one year~~ **three years** of the alleged discriminatory act(s),

unless an exception exists pursuant to Government Code 12960 **(Government Code 12960)**

2. ~~To file a valid~~ **For filing a** complaint ~~directly~~ with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. ~~To file a valid~~ **For filing a** complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

(12/16 3/19) 12/19

# National SD Board Policy

All Personnel

BP 4033(a)

## LACTATION ACCOMMODATION

The Governing Board recognizes the immediate and long-term health ~~advantages~~ **benefits** of breastfeeding ~~for infants and mothers~~ and desires to provide a supportive environment for any district employee to express milk for ~~her~~ **an** infant child upon ~~her~~ **returning** to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee ~~who chooses~~ **for seeking an accommodation** to express breast milk for ~~her~~ **an** infant child while at work.

*(cf. 4030 - Nondiscrimination in Employment)*

~~The district shall provide a reasonable amount of break time to accommodate an employee each time she has a need to express breast milk for her infant child. (Labor Code 1030)~~

BP 4033(b)

## LACTATION ACCOMMODATION (continued)

~~To the extent possible, such break time shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 207)~~

~~The employee shall be provided a private location, other than a restroom, which is in close proximity to her work area and meets the requirements of Labor Code 1031 and 29 USC 207, as applicable.~~

~~An e~~ **Employees** ~~are encouraged to~~ **shall** notify ~~their~~ **the employee's** supervisor or other appropriate personnel in advance of their intent to ~~make use of the~~ **request an** accommodations offered for employees who are nursing mothers. ~~As needed, the supervisor shall~~ **The supervisor shall respond to the request and shall** work with the employee to ~~address~~ **make** arrangements, ~~and~~ **If needed, the supervisor shall address** scheduling in order to ensure that the employee's essential job duties are covered during the break time.

BP 4033(c)

## LACTATION ACCOMMODATION (continued)

Lactation accommodations ~~may be denied only in limited circumstances~~ **shall be granted in accordance with law unless limited circumstances exist as specified in law.** (Labor Code 1031, 1032; 29 USC 207)

Before ~~an employee's supervisor makes~~ a determination **is made** to deny lactation accommodations **to an employee,** ~~he/she~~ **the employee's supervisor** shall consult **with** the Superintendent or designee. ~~In any case in which~~ **When** lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

**The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)**

**The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute the policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)**

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

BP 4033(c)

## LACTATION ACCOMMODATION (continued)

### **Break Time and Location Requirements**

The district shall provide a reasonable amount of break time to accommodate an employee each time ~~she~~ **the employee** has a need to express breast milk for ~~her~~ **an** infant child. (Labor Code 1030)

To the extent possible, ~~such~~ **any** break time **granted for lactation accommodation** shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 207)

The employee shall be provided **the** use of a private room or location, other than a ~~restroom~~ **bathroom, which may be the employee's work area or another location that** ~~which~~ is in close

proximity to the employee's her work area. **The room or location provided shall and meets the following requirements:** of (Labor Code 1031; and 29 USC 207), as applicable.

- 1. Is shielded from view and free from intrusion while the employee is expressing milk**
- 2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382**
- 3. Contains a place to sit and a surface to place a breast pump and personal items**

BP 4033(e)

#### LACTATION ACCOMMODATION (continued)

- 4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump**
- 5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing milk in close proximity to the employee's workspace**

**If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code 1031)**

#### **Dispute Resolution**

**An employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)**

*(cf. 4144/4244/4344 - Complaints)*

#### *Legal Reference:*

##### EDUCATION CODE

200-262.4 **Educational equity; p**rohibition of discrimination on the basis of sex

##### CIVIL CODE

43.3 *Right of mothers to breastfeed in any public or private location*

##### GOVERNMENT CODE

**12926 Definition of sex; breastfeeding**

12940 **Unlawful d**iscriminatory employment practices

12945 **Unlawful d**iscrimination based on pregnancy, childbirth, or related medical conditions

##### LABOR CODE

~~1030-1033~~ **1034** *Lactation accommodation*

**6382** *Procedure for listing hazardous substances*

CODE OF REGULATIONS, TITLE 2

11035-~~11049~~ **11051 Unlawful s**Sex discrimination; pregnancy and related medical conditions

UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

Management Resources: (see next page)

BP 4033(f)

**LACTATION ACCOMMODATION** (continued)

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Minimum Requirements of the California Lactation Accommodation Law **Lactation Accommodation for Employers**

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Frequently Asked Questions- Break Time for Nursing Mothers

Fact Sheet #73: Break Time for Nursing Mothers under the FLSA, rev. April 2018

Fact Sheet #3: Break Time for Nursing Mothers under the FLSA, rev. December 2010

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse> California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children **Program**: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers:

<http://www.dol.gov/whd/nursingmothers>

(7/11) 12/19

Policy Reference UPDATE Service

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# National SD Board Policy

Certificated Personnel

BP 4116(a)

## PROBATIONARY/PERMANENT STATUS

The Governing Board desires to employ and retain highly qualified certificated personnel to implement the district's educational program. Newly hired certificated personnel shall serve a probationary period during which the Board shall determine their suitability for long-term district employment.

Certificated employees who satisfactorily complete the probationary period shall be granted permanent status.

BP 4116(b)

## PROBATIONARY/PERMANENT STATUS (continued)

**OPTION 1: (Districts of 250 ADA or more, and districts with less than 250 ADA whose Board has elected to dismiss probationary employees during the school year pursuant to Education Code 44948.2 and 44948.3)**

A probationary ~~teacher~~ **employee** who has been employed by the district in a position(s) ~~or positions~~ requiring certification for two complete consecutive school years and is then ~~rehired~~ **relected** for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21, 44929.23)

**OPTION 2: (Districts with less than 250 ADA that grant permanent status after three years)**

A probationary ~~teacher~~ **employee** who has been employed by the district in a position(s) ~~or positions~~ requiring certification for three complete consecutive school years and is then ~~rehired~~ **relected** for the next succeeding school year shall become a permanent employee at the beginning of the fourth year. ~~This grant of permanent status may only be made specifically by and at the discretion of the Board.~~ (Education Code 44929.23)

## **Probationary Status**

**During the probationary period, Probationary employees shall receive training professional development and, assistance and evaluations consistent with their needs as new teachers. Such training and assistance which** may consist of inservice training and/or meetings with the employee's evaluator to discuss areas of strength and areas requiring improvement. Inservice training may be provided during school hours as part of a comprehensive staff development program.

*(cf. 4131 - Staff Development)*

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4131 - Staff Development)*

### **Dismissal/Nonrelection of Probationary Employees**

**During the school year, a probationary employee may be suspended or dismissed only for cause and in accordance with district procedures. (Education Code 44948.3)**

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

BP 4116(c)

### **PROBATIONARY/PERMANENT STATUS (continued)**

**With proper notice, the Board may, without cause, elect not to reemploy a probationary employee for the subsequent year. (Education Code 44929.21, 44929.23)**

*(cf. 4117.3 - Personnel Reduction)*

*(cf. 4117.6 - Decision Not to Rehire)*

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

**The Superintendent or designee shall annually provide the Board with recommendations regarding the reelection or nonrelection of probationary certificated personnel for the ensuing school year.**

**At any time during a probationary employee's first year of employment in the district, the Board may give written notice to the employee of the Board's decision not to reelect the employee for a second school year. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.**

During the final year of the probationary period, the Board may decide not to reelect the employee for the following year, and shall so notify the employee in writing on or before March 15. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44948.5)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

BP 4116(d)

## PROBATIONARY/PERMANENT STATUS (continued)

Such notices shall be delivered through personal service upon the employee, certified mail with return receipt, email, or another method which documents actual receipt of the notice by the employee.

### Permanent Status

~~Granting of permanent status shall be based on completion of the probationary period in accordance with applicable law. Employees granted permanent status acquire specific rights under the Education Code, including those relating to discipline and dismissal. (Education Code 44932-44988)~~

~~(cf. 4118 - Dismissal/Suspension/Disciplinary Action)~~

*Legal Reference: (see next page)*

BP 4116(e)

## PROBATIONARY/PERMANENT STATUS (continued)

*Legal Reference:*

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 *Status of district interns*  
44908 *Complete year for probationary employees*  
44909 *Classification of certificated employees in categorically funded projects*  
~~44911~~ **44910**-44913 *Service not computed in eligibility for permanent status*  
44915 *Classification of probationary employees*  
44917-44921 *Status of substitute or temporary employees*  
44929.20 *Continuing contracts (not to exceed four years - ADA under 250)*  
44929.21 *Districts of 250 ADA or more*  
44929.23 *Districts with less than 250 ADA*  
44929.28 *Employment by another district*  
44930-44988 *Resignations, dismissals and leaves of absence, especially:*  
44948.2 *Election to use provisions of Section 44948.3*  
44948.3 *Dismissal of probationary employees*  
**44948.5 *Nonreelection procedures, districts under 250 ADA***  
**44949 *Cause, notice and right to hearing required for dismissal of probationary employee***  
**44955 *Reduction in number of permanent employees***

**COURT DECISIONS**

**Grace v. Beaumont Unified School District (2013) 216 Cal. App. 4th 1325**

**Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 203 Cal. App. 4th 1552**

**Sullivan v. Centinela Valley Union High School District (2011) 194 Cal. App. 4th 69**

**California Teachers Assn. v. Vallejo City Unified School District (2007) 149 Cal. App. 4th 135, 146**

**Hoschler v. Sacramento City Unified School District (2007) 149 Cal. App. 4th 258**

**Bakersfield Elementary Teachers Assn. v. Bakersfield City School District (2006) 145 Cal. App. 4th 1260, 1280**

**Fischer v. Los Angeles Unified School District (1999) 70 Cal. App. 4th 87**

**Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal. App. 3d 805**

**Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal. App. 3d 1517**

**Grimsley v. Board of Trustees (1987) 189 Cal. App. 3d 1440**

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# National SD

## Administrative Regulation

Certificated Personnel

AR 4116(a)

### PROBATIONARY/PERMANENT STATUS

#### ~~Permanent Status (Districts of 250 ADA or More)~~

~~A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21)~~

#### ~~Permanent Status (Districts with Less than 250 ADA)~~

~~OPTION 1: A probationary teacher who has been employed by the district in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.23)~~

AR 4116(b)

### PROBATIONARY/PERMANENT STATUS (continued)

~~OPTION 2: A probationary teacher who has been employed by the district in a position or positions requiring certification for three complete consecutive school years and is then rehired for the next succeeding school year may become a permanent employee at the beginning of the fourth year. This grant of permanent status may only be made specifically by and at the discretion of the Board. (Education Code 44929.23)~~

~~OPTION 3: Permanent status shall not be granted to certificated district employees. (Education Code 44929.23)~~

~~(cf. 4115—Evaluation/Supervision)~~

~~(cf. 4117.6—Decision Not to Rehire)~~

~~(cf. 4118—Dismissal/Suspension/Disciplinary Action)~~

~~(cf. 4121—Temporary/Substitute Personnel)~~

#### Eligibility for Permanent Status

**A probationary employee who, in any one school year, has served for at least 75 percent of the number of days maintained by regular district schools shall be deemed to have served a complete school year. (Education Code 44908)**

**The following shall not be included for purposes of computing the service required as a prerequisite to classification as a permanent employee:**

- 1. Service as an instructor in classes conducted at regional occupational centers or programs (Education Code 44910)**
- 2. Service under a provisional credential other than a one-year emergency credential (Education Code 44911)**
- 3. Service only as a teacher of basic military drill in high school cadet companies (Education Code 44912)**
- 4. Employment in summer school (Education Code 44913)**

#### **Permanency Achieved in Other Districts**

A person who has achieved permanent status as a certificated employee in another school district may be employed by the **Governing** Board as a permanent certificated employee. (Education Code 44929.28)

AR 4116(c)

#### **PROBATIONARY/PERMANENT STATUS (continued)**

##### **Interns**

A person employed as a district or university intern shall be classified as a probationary employee. Following completion of the internship, if ~~he/she is~~ reelected by the district to serve in a position requiring certification qualifications for the next succeeding school year, ~~he/she~~ **the employee** shall continue to be classified as a probationary employee during that year. (Education Code 44466, 44885.5)

*(cf. 4112.21 - Interns)*

~~A person~~ **An employee** who has completed an internship and at least one complete school year in a position requiring certification qualifications within the district shall be granted permanent status

when ~~he/she~~ **the employee** is reelected for the next succeeding school year to a position requiring certification qualifications. (Education Code 44466, 44885.5)

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# National SD Board Policy

All Personnel

BP 4119.22(a)

4219.22

**DRESS AND GROOMING**

4319.22

The Governing Board believes that appropriate dress and grooming by district employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and do not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

*(cf. 0415 - Equity)*

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. ~~4112.21/4212.21/4312.21~~ 4119.21/4219.21/4319.21 - Professional Standards)*

*(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)*

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

The district shall allow employees to appear and dress in a manner consistent with their gender identity or gender expression. (Government Code 12949)

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

**The district shall not discriminate against employees based on hair texture and protective hairstyles, including, but not limited to, braids, locks, and twists. (Government Code 12926)**

~~In addition, the~~ **The** district shall not dismiss an employee, discriminate against an employee in compensation or in terms, conditions, or privileges of employment, or refuse to hire a job applicant on the basis of religious dress or grooming practices. (Government Code 12926, 12940)

BP 4119.22(b)

4219.22

4319.22

**DRESS AND GROOMING** (continued)

This policy shall be presented to employees upon employment, through the employee handbook or other appropriate means, and may be periodically reviewed with all employees as necessary.

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12926 Definitions

12940 Unfair employment practices

12949 Dress standards, consistency with gender identity

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856 838

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

*Management Resources:*

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

Transgender Rights in the Workplace

WEB SITES

California Department of Fair Employment and Housing: <https://www.dfeh.ca.gov>

Public Employment Relations Board: <http://www.perb.ca.gov>

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# National SD

## Board Policy

All Personnel

BP 4151(a)

4251

**EMPLOYEE COMPENSATION**

4351

In order to recruit and retain employees committed to the district's goals for student learning, the Governing Board recognizes the importance of offering a competitive compensation package which includes salaries and health and welfare benefits.

*(cf. 3100 - Budget)*

*(cf. 3400 - Management of Districts Assets/Accounts)*

*(cf. 4000 - Concepts and Roles)*

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and collective bargaining agreements and shall be printed and made available for review at the district office. (Education Code 45022, 45023, 45160, 45162, **45268**)

*(cf. 4121 - Temporary/Substitute Personnel)*

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

*(cf. 4143/4243 - Negotiations/Consultation)*

Each certificated employee, except an employee in an administrative or supervisory position, shall be classified on the salary schedule on the basis of uniform allowance for **years of training education level** and years of experience, unless the Board and employee organization negotiate and mutually agree to a salary schedule based on different criteria. Certificated employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the grade levels at which they teach. (Education Code 45028)

*(cf. 4030 - Nondiscrimination in Employment)*

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

*(cf. 4140/4240/4340 - Bargaining Units)*

*(cf. 4312.1 - Contracts)*

BP 4151(b)  
4251  
4351

**EMPLOYEE COMPENSATION** (continued)

The Board shall determine the frequency and schedule of salary payments, including whether payments for employees who work less than 12 months per year will be made over the course of the school year or in equal installments over the calendar year. (Education Code 45038, 45039, 45048, 45165)

The Superintendent or designee shall post a notice explaining the Fair Labor Standards Act's wage and hour provisions in a conspicuous place at each work site. (29 CFR 516.4)

**Overtime Compensation**

BP 4151(c)  
4251  
4351

**EMPLOYEE COMPENSATION** (continued)

**And** District employees shall be paid an overtime rate of not less than one and one-half times **his/her** **their** regular rate of pay for any hours worked in excess of eight hours in one day or 40 hours in one work week, **or twice their regular rate of pay for any hours worked in excess of 12 hours in one day or eight hours on the seventh consecutive day of work.** However, employees shall be exempt from overtime rules if they are employed as teachers or school administrators or if they qualify as being employed in an executive, administrative, or professional capacity and are paid a **fixed salary at or above the salary level established by federal regulations** **monthly salary that is at least twice the state minimum wage for full-time employment.** (Labor Code 510, **515**; 29 USC 213; 29 CFR 541.0-541.710, 553.27, 553.32)

BP 4151(d)  
4251  
4351

## **EMPLOYEE COMPENSATION (continued)**

When authorized in a collective bargaining agreement or other agreement between the district and employees, an employee may take compensatory time off in lieu of overtime compensation, provided **he/she the employee** has not accrued compensatory time in excess of the limits specified in 29 USC 207. An employee who has requested the use of compensatory time shall be allowed to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt district operations. (29 USC 207; 29 CFR 553.20-553.25)

For each nonexempt employee, the Superintendent or designee shall maintain records on the employee's wages, hours, and other information specified in 29 CFR 516.5-516.6.

(cf. 3580 - District Records)  
(cf. 4112.6/4212.6/4312.6 - Personnel Files)

*Legal Reference: (see next page)*

BP 4151(e)  
4251  
4351

## **EMPLOYEE COMPENSATION (continued)**

*Legal Reference:*

EDUCATION CODE

45022-45061.5 Salaries, especially:  
45023 Availability of salary schedule  
45028 Salary schedule for certificated employees  
45160-45169 Salaries for classified employees  
45268 Salary schedule for classified service in merit system districts

GOVERNMENT CODE

3540-3549 Meeting and negotiating, especially:  
3543.2 Scope of representation  
3543.7 Duty to meet and negotiate in good faith

LABOR CODE

226 Employee access to payroll records  
232 Disclosure of wages

510 Overtime compensation; length of work day and week; alternative schedules

**515 Overtime exemption for administrative, executive, and professional employees**

**CODE OF REGULATIONS, TITLE 8**

**11040 Wages and hours; definitions of administrative, executive, and professional employees**

UNITED STATES CODE, TITLE 26

409A Deferred compensation plans

UNITED STATES CODE, TITLE 29

201-219 Fair Labor Standards Act, especially:

203 Definitions

207 Overtime

213 Exemptions from minimum wage and overtime requirements

CODE OF FEDERAL REGULATIONS, TITLE 26

1.409A-1 Definitions and covered plans

CODE OF FEDERAL REGULATIONS, TITLE 29

516.4 Notice of minimum wage and overtime provisions

516.5-516.6 Records

541.0-541.710 Exemptions for executive, administrative, and professional employees

553.1-553.51 Fair Labor Standards Act; applicability to public agencies

COURT DECISIONS

Flores v. City of San Gabriel, 9th Cir., June 2, 2016, No. 14-56421

*Management Resources:*

WEB SITES

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

Internal Revenue Service: <http://www.irs.gov>

School Services of California, Inc.: <http://www.sscal.com>

U.S. Department of Labor, Wage and Hour Division: <https://www.dol.gov/whd>

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# National SD

## Board Policy

Classified Personnel

BP 4216(a)

### PROBATIONARY/PERMANENT STATUS

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed one year of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

The Governing Board desires to employ and retain highly qualified classified personnel to support the district's educational program and operations. Newly hired classified employees shall serve a probationary period during which the Board shall determine their suitability for long-term district employment.

A probationary employee who has been employed by the district for six months or 130 days of paid service, whichever is longer, shall be classified as a permanent employee of the district. (Education Code 45113, 45301)

Probationary employees shall receive written performance evaluations by their supervisor during the probationary period. These evaluations shall indicate whether the evaluator is satisfied or not satisfied with the employee's ability, performance, and compatibility with the job.

BP 4216(b)

### PROBATIONARY/PERMANENT STATUS (continued)

*(cf. 4215 - Evaluation/Supervision)*

The Superintendent or designee district may, without cause, dismiss an a new employee during the initial probationary period.

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

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed the probationary period one year of service in that position.

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which ~~he/she~~ **the employee** was promoted. (Education Code 45113)

This policy shall be made available to classified employees and the public. (Education Code 45113)

**(cf. 4112.9/4212.9/4312.9 - Employee Notifications)**

*Legal Reference:*

EDUCATION CODE

45113 *Rules and regulations for classified service in districts not incorporating the merit system*

45240-45320 *Merit system*

*Management Resources:*

WEB SITES

*California School Employees Association: <http://www.csea.org>*

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# National SD Board Policy

Classified Personnel

BP 4218(a)

## DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

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

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 4000 - Concepts and Roles)*

*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

***(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)***

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

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

*(cf. 4200 - Classified Personnel)*

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

*(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*

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

A probationary classified employee may be dismissed by the Superintendent or designee at any time prior to the expiration of the probationary period.

*(cf. 4216 - Probationary/Permanent Status)*

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

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

**Procedures for Serious Disciplinary Proceedings**

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

BP 4218(c)

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

~~If a permanent classified employee receives a notice from the Superintendent or designee of a recommended suspension, demotion, involuntary reassignment, or dismissal, the employee may request a Board hearing on the matter.~~

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

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

~~If a timely request is submitted, a hearing shall be conducted by the Board, except that, if the matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. (Education Code 45113, 45312)~~

~~(cf. 3515.3 – District Police/Security Department)~~

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

BP 4218(d)

### **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

The hearing shall be held in closed session, unless the employee requests that the matter be heard in an open session meeting. (Government Code 54957)

*(cf. 9321 - Closed Session)*

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

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

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

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

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

**In lieu of holding a Board hearing on the sufficiency of the causes for disciplinary action, the Board may delegate its authority to an impartial third-party hearing officer. When the matter is heard by a third-party hearing officer, the Board retains the authority to review the determination and to adopt or reject the recommended decision. (Education Code 45113)**

If the matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a minor, the matter shall be referred to an administrative law judge to

BP 4218(e)

## **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

determine whether sufficient cause exists for disciplinary action against the employee. In **such** cases ~~involving an allegation of egregious misconduct~~, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45113)

### *Legal Reference:*

#### EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *Sex offense*

44011 *"Controlled substance offense" defined*

44031 *Personnel file*

44940 *Leave of absence; employee charged with mandatory or optional leave of absence offense*

44940.5 *Compulsory leave of absence; procedures; extension; compensation; bond or security*

44990-44994 *Testimony of minor witnesses at dismissal or suspension hearings*

45101 *Definitions (including "disciplinary action," "cause")*

45109 *Fixing of duties*

45113 *Rules and regulations for classified service in districts not incorporating the merit system*

45123 *Employment after conviction of sex or narcotics offense*

45124 *Dismissal of sexual psychopath*

45202 *Transfer of accumulated sick leave and other benefits following dismissal*

45240-45320 *Merit system, classified employees*

#### CODE OF CIVIL PROCEDURE

1286.2 *Grounds for vacating decision of arbitrator*

#### GOVERNMENT CODE

11500-11529 *Administrative adjudication*

12900-12996 *Fair Employment and Housing Act*

54957 *Brown Act open meeting laws; closed session*

#### HEALTH AND SAFETY CODE

11054 *Schedule I; substances included*

11055 *Schedule II, substances included*

11056 *Schedule III, substances included*

11357-11361 *Marijuana*

11363 *Peyote*

11364 *Opium*

11370.1 *Possession of controlled substances with a firearm*

*Legal Reference continued: (see next page)*

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

*Legal Reference: (continued)*

PENAL CODE

187 Murder

667.5 Sex offenders

830.32 Peace officers employed by district

1192.7 Violent or serious felony

11165.2-11165.6 Child abuse or neglect, definitions

VEHICLE CODE

1808.8 School bus drivers; dismissal for safety-related cause

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

COURT DECISIONS

California School Employees Association v. Bonita Unified School District (2008) No. B200141

California School Employees v. Livingston Union School District (2007) 149 Cal.App 4th 391

CSEA v. Foothill Community College District (1975) 52 Cal.App. 3rd 150, 155-156, 124 Cal. Rptr 830

Skelly v. State Personnel Board (1975) 15 Cal. 3d 194

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# National SD

## Administrative Regulation

Classified Personnel

AR 4218(a)

### DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

#### Causes for Disciplinary Action

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

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6

*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*

*(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)

3. Unlawful discrimination, including harassment, against any student or other employee

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure

5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records

6. Unsatisfactory performance

AR 4218(b)

**DISMISSAL/SUSPENSION/DISCIPLINARY ACTION** (continued)

7. Unprofessional conduct
8. Dishonesty
9. Neglect of duty or absence without leave
10. Insubordination
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance

*(cf. 4020 - Drug and Alcohol-Free Workplace)*  
*(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)*  
*(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)*  
*(cf. 4159/4259/4359 - Employee Assistance Program)*

12. Destruction or misuse of district property

*(cf. 4040 - Employee Use of Technology)*

13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*  
*(cf. 4212 - Appointment and Conditions of Employment)*

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

*(cf. 4030 - Nondiscrimination in Employment)*  
*(cf. 4032 - Reasonable Accommodation)*

15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job

AR 4218(c)

## **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)**

*(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*

16. Violation of Education Code 45303 or Government Code 1028 (advocacy of communism)
17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising free speech or press rights pursuant to Education Code 48907 or 48950. (Education Code 48907, 48950)

*(cf. 5145.2 - Freedom of Speech/Expression)*

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

*(cf. 4216 - Probationary/Permanent Status)*

### **Initiation and Notification of Charges**

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

AR 4218(d)

### **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)**

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

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

notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code 45113, 45116)

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

### **Request for Board Hearing**

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

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

AR 4218(e)

## **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)**

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

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any hearing on the charges, unless the Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay-and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance.

### **Compulsory Leave of Absence**

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

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187 (murder or attempted murder)

3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

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

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing on the dismissal.

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# National SD

## Board Policy

Classified Personnel

BP 4218.1(a)

### DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM)

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

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 4000 - Concepts and Roles)*  
*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*  
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*  
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)*  
*(cf. 4141/4241 - Collective Bargaining Agreement)*  
*(cf. 4200 - Classified Personnel)*

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension without pay, reduction of pay step in class, compulsory leave, and dismissal.

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

*(cf. 4030 - Nondiscrimination in Employment)*  
*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*  
*(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*

A probationary classified employee may be dismissed **without cause** ~~by the Superintendent or designee~~ at any time prior to the expiration of the probationary period.

BP 4218.1(b)

### DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)

*(cf. 4216 - Probationary/Permanent Status)*

Any permanent classified employee designated as a permanent employee shall be subject to disciplinary action only for cause as specified in administrative regulation suspension, demotion, involuntary reassignment, or dismissal only for one or more of the causes designated by rule of the personnel commission. (Education Code 45302, 45304)

### **Procedures for Disciplinary Proceedings**

When such serious disciplinary action is being contemplated against an employee, the district shall adhere to disciplinary procedures developed by the personnel commission. Due process shall be afforded to the employee, including proper notice, an opportunity for the employee to meet with a designated district official ("Skelly officer") or to respond in writing to the charges, and an opportunity to appeal the district's decision with the personnel commission in accordance with Education Code 45305-45307. If the matter is addressed in a hearing before the personnel commission, the decision of the personnel commission shall be final.

If a permanent classified employee receives a notice from the Superintendent or designee of a recommended suspension, demotion, involuntary reassignment, or dismissal, the employee may request a hearing on the matter.

BP 4218.1(c)

### **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)**

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

If a timely request is submitted, the hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The parties shall be notified of the time and place of the hearing.

The matter shall be heard by the Board in closed session, unless the employee requests that the matter be heard in an open session meeting. (Government Code 54957)

*(cf. 9321 - Closed Session)*

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

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

~~An employee may appeal the Board's decision to the personnel commission in accordance with Education Code 45305-45307. The decision of the personnel commission shall be final. (Education Code 45306)~~

BP 4218.1(d)

### **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)**

However, if the matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. The ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45312)

#### *Legal Reference:*

##### EDUCATION CODE

35161 *Delegation of powers and duties*

44009 *Conviction of specified crimes*

44010 *Sex offense*

44011 *"Controlled substance offense" defined*

44031 *Personnel file*

44940 *Leave of absence; employee charged with mandatory or optional leave of absence offense*

44940.5 *Compulsory leave of absence*

44990-44994 *Testimony of minor witnesses at dismissal or suspension hearings*

45101 *Definitions (including "disciplinary action," "cause")*

45109 *Fixing of duties*

45123 *Employment after conviction of sex or narcotics offense*

45124 *Dismissal of sexual psychopath*

45202 *Transfer of accumulated sick leave and other benefits following dismissal*

45240-45320 *Merit system, classified employees, especially:*

45302-45307 *Suspension, dismissal, or other disciplinary action; classified employees*

##### CODE OF CIVIL PROCEDURE

1286.2 *Grounds for vacating decision of arbitrator*

##### GOVERNMENT CODE

11500-11529 *Administrative adjudication*

12900-12996 *Fair Employment and Housing Act*

54957 *Brown Act open meeting laws; closed session*

##### HEALTH AND SAFETY CODE

11054 Schedule I; substances included  
11055 Schedule II, substances included  
11056 Schedule III, substances included  
11357-11361 Marijuana  
11363 Peyote  
11364 Opium  
11370.1 Possession of controlled substances with a firearm  
PENAL CODE  
187 Murder  
667.5 Sex offenders  
830.32 Peace officers employed by district  
1192.7 Violent or serious felony  
11165.2-11165.6 Child abuse or neglect, definitions  
VEHICLE CODE  
1808.8 School bus drivers; dismissal for safety-related cause  
UNITED STATES CODE, TITLE 42  
12101-12213 Americans with Disabilities Act

Legal Reference continued: (see next page)

BP 4218.1(e)

## **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)**

Legal Reference: (continued)

### COURT DECISIONS

California School Employees Association v. Bonita Unified School District (2008) No. B200141

California School Employees v. Livingston Union School District (2007) 149 Cal.App 4th 391

CSEA v. Foothill Community College District (1975) 52 Cal. App. 3rd 150, 155-156, 124 Cal. Rptr 830

**Skelly v. State Personnel Board (1975) 15 Cal. 3d 194**

**California School Employees Association v. Personnel Commission (1970) 3 Cal.3d 139**

Management Resources:

CALIFORNIA SCHOOL PERSONNEL COMMISSIONERS ASSOCIATION PUBLICATIONS

Merit Rules and Regulations: CSPCA Recommended Personnel Policies and Procedures Manual for

California School Merit Systems, 2014

### WEB SITES

California School Personnel Commissioners Association: <https://meritsystem.org>

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# National SD

## Administrative Regulation

Classified Personnel \_\_\_\_\_ AR 4218.1(a)

### ~~DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM)~~

#### ~~Causes for Disciplinary Action~~

~~A permanent classified employee may be subject to suspension without pay for up to 30 days, demotion, involuntary reassignment, or dismissal for one or more of the causes designated by the personnel commission. (Education Code 45302, 45304)~~

#### ~~Initiation and Notification of Charges~~

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

~~The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. (Education Code 45116)~~

~~In addition, the notice shall advise the employee of the right to appeal and the timeline and procedure for doing so.~~

#### ~~Request for Hearing~~

\_\_\_\_\_ AR 4218.1(b)

### ~~DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)~~

~~Within the time period specified in the notice of the recommendation of disciplinary action, which shall be no more than five working days, a permanent classified employee may submit to the Superintendent or designee a request for a hearing on the charges.~~

~~In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any request for a hearing on the dismissal shall also constitute a~~

request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

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

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any Board hearing on the charges, unless the Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance.

### **Compulsory Leave of Absence**

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: (Education Code 44940, 45304)

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

The Superintendent or designee may place on an immediate compulsory leave of absence a classified employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols. (Education Code 44940)

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

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AR 4218.1(e)

### **DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (MERIT SYSTEM) (continued)**

However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from

the date of service of the notice unless the employee demands a hearing on the dismissal. (Education Code 44940, 44940.5)

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

### **Appeal to the Personnel Commission**

Any permanent classified employee who has been suspended, demoted, or dismissed may appeal to the personnel commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. (Education Code 45305)

Upon request of the employee, the personnel commission or a hearing officer designated by the personnel commission shall conduct a hearing. The employee shall be entitled to appear in person at the hearing and may be represented by legal counsel. (Education Code 45306)

The decision of the personnel commission shall be final. The district shall notify the personnel commission in writing when it has fully complied with the decision. (Education Code 45306, 45307)

# National SD Board Policy

Facilities

BP 7140(a)

## ARCHITECTURAL AND ENGINEERING SERVICES

~~In order to ensure safe construction and protect the investment of public funds, the Governing Board requires that~~ **The Governing Board desires to provide school facilities that support the educational program and meet all applicable safety and design standards. When required by law, the Board shall employ or contract with** a licensed and certified architect **and/or** structural engineer ~~be employed~~ to design and supervise the construction of district schools and other facilities.

*(cf. 7110 - Facilities Master Plan)*

**The architect and/or structural engineer shall be responsible for preparing all construction plans, specifications, and estimates and for the observation of the work of construction. (Education Code 17302)**

**To ensure compliance with state design and safety standards, preliminary and final plans for any state-funded school facility project, including Board-approved educational specifications for school design when necessary, shall be submitted to the California Department of Education and the Department of General Services, Division of the State Architect. (Education Code 17267; 5 CCR 14030-14032)**

The Superintendent or designee shall devise a competitive process for the selection of architects, ~~and~~ structural engineers, **and other design professionals** that is based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For each project, ~~he/she~~ **the Superintendent or designee** shall recommend **specific** architectural and engineering firms to the Board **for approval**. The Board shall pay fair and reasonable amounts warranted by the provider's qualifications and competence. The Board need not select the lowest responsible bidder.

*(cf. 3311 - Bids)*

*(cf. 3311.3 - Design-Build Contracts)*

*Legal Reference: (see next page)*

## ARCHITECTURAL AND ENGINEERING SERVICES (continued)

### Legal Reference:

#### EDUCATION CODE

**17070.10-17079.30 Leroy F. Greene School Facilities Act, especially:**

17070.50 Conditions for apportionment

**17250.10-17250.55 Design-build contracts**

**17251 School construction; duties of the California Department of Education**

**17262-17268 School construction plans**

17280-17316 Approvals, especially:

17302 Persons qualified to prepare plans, specifications and estimates and supervise construction

17316 Contract provision regarding school district property

17371 Limitation on liability of governing board

#### BUSINESS AND PROFESSIONS CODE

**5500-5502 Architecture**

**5550-5558 Architects, licensure**

**6700-6706.3 Engineers**

**6750-6766 Engineers, licensure**

#### GOVERNMENT CODE

4525-4529.5 Contracts with private architects, engineering, land surveying, and construction project management firms

14837 Definition of small business

87100 Public officials; financial interest

#### PUBLIC CONTRACT CODE

20111 School district contracts

#### CODE OF REGULATIONS, TITLE 5

**14001 Minimum standards for school facilities**

**14030-14036 Standards, planning, and approval of school facilities**

#### CODE OF REGULATIONS, TITLE 24

**101 et seq. California Building Standards Code**

#### CALIFORNIA CONSTITUTION

**Article 22 Architectural and engineering services**

### Management Resources:

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

**Plan Submission Requirements for Modernization Projects, Form SFPD 4.08**

**Plan Submission Requirements for New Construction, Form SFPD 4.07**

#### OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

**School Facility Program Handbook, January 2019**

#### WEB SITES

**American Institute of Architects California Council: <https://aiacalifornia.org>**

**California Department of Education, Facilities: <http://www.cde.ca.gov/lis/fa>**

**Department of General Services, Division of the State Architect: <https://www.dgs.ca.gov/DSA>**

**Department of General Services, Office of Public School Construction: <https://www.dgs.ca.gov/OPSC>**

(10/96 2/99) 10/19

### Policy Reference UPDATE Service

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# National SD

## Administrative Regulation

Facilities

AR 7140(a)

### ARCHITECTURAL AND ENGINEERING SERVICES

~~The Governing Board shall engage the services of a licensed architect(s) holding a valid certificate or engineer(s) holding a valid certificate for the preparation of plans, specifications or estimates for any construction project, through a signed contract. (Education Code 17302)~~

~~(cf. 3312 - Contracts)~~

Contractors for any architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be selected, at fair and reasonable prices, on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. (Government Code 4526)

The Superintendent or designee shall ensure that the selection process for projects receiving state funding: (Government Code 4526)

- ~~Ensures that projects entail~~ **Assures** maximum participation by small business firms as defined pursuant to Government Code 14837
- Prohibits practices which might result in unlawful activity such as rebates, kickbacks, or other unlawful consideration
- Prohibits district employees from participating in the selection process when they have a relationship with a person or business entity seeking a contract which would subject the employee to the prohibition of Government Code 87100

~~(cf. 9270 - Conflict of Interest)~~

The selection process may also include: (Government Code 4527)

- ~~Detailed evaluations~~ **Evaluation** of current statements of ~~prospective contractors'~~ qualifications and performance data **on file with the district and evaluation of statements that may be submitted by other firms regarding the proposed project**
- Discussion ~~with at least three firms~~ **regarding anticipated concepts and the relative utility** of alternative approaches for furnishing the **required** services ~~with at least three firms~~

**ARCHITECTURAL AND ENGINEERING SERVICES** (continued)

3. Selection, in order of preference, of at least three firms deemed to be the most highly qualified to provide the required services in accordance with established district criteria and recommended in order of preference

The district shall negotiate a contract with the best qualified firm at compensation determined by the district to be fair and reasonable. If the district is unable to negotiate a contract with the most qualified firm, the district shall negotiate a contract with the second most qualified firm and, if unsuccessful, with the third most qualified firm. If the district is unable to negotiate a satisfactory contract with any of the selected firms, the district shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached. (Government Code 4528)

The above procedures shall not apply if the Superintendent or designee determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest. (Government Code 4529)

*(cf. 3311 - Bids)*

Contracts shall specify that all plans, including, but not limited to, record drawings, specifications, and estimates prepared by the contractor, architect or structural engineer shall become the property of the district. The contract shall also specify terms and conditions for reuse within the district of any plans prepared by the architect or structural engineer. (Education Code 17316)

A contract may be awarded to a single entity for both design and construction of any school facility in excess of \$1,000,000 in accordance with AR 3311.3 - Design-Build Contracts. (Education Code 17250.20)

*(cf. 3311.3 - Design-Build Contracts)*

(2/96 2/99) 10/19

# National SD

## Board Bylaw

Board Bylaws

BB 9150(a)

### STUDENT BOARD MEMBERS

In order to enhance communication and collaboration between the Governing Board and the student body and to teach students the importance of civic involvement, the Board supports the participation of high school students in district governance.

**Student Board members may, at the Board's discretion, receive elective course credit for service as a student Board member based on the number of equivalent daily instructional minutes for the student Board member's services provided. (Education Code 35012, 35120)**

Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the Board, but shall not receive **monetary** compensation for attendance at Board meetings. (Education Code 35012)

*(cf. 3350 - Travel Expenses)*

*(cf. 9250 - Remuneration, Reimbursement and Other Benefits)*

**A student Board member shall not be liable for any acts of the Board. (Education Code 35012)**

*(cf. 9323.2 - Actions by the Board)*

### Petition

BB 9150(b)

### STUDENT BOARD MEMBERS (continued)

High school students may submit a petition to the Board requesting the appointment of at least one student Board member. (Education Code 35012)

To qualify for Board consideration, the petition for student representation shall contain the signatures of no less than 500 regularly enrolled high school students or no less than 10 percent of the number of regularly enrolled high school students, whichever is less. (Education Code 35012)

Within 60 days of receiving a student petition, or at the next regularly scheduled Board meeting if no meeting is held within those 60 days, the Board shall order the inclusion of at least one student member on the Board. (Education Code 35012)

### Election of Student Board Member

Student Board member positions shall be filled by a vote of students enrolled in the high school(s) in accordance with procedures prescribed by the Board. (Education Code 35012)

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

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6145 - Extracurricular and Cocurricular Activities)

The term of student Board member(s) shall be one year, commencing on July 1. (Education Code 35012)

### **Role and Responsibilities of Student Board Members**

Student Board member(s) shall have the right to attend all Board meetings except closed (executive) sessions. (Education Code 35012)

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

BB 9150(c)

### **STUDENT BOARD MEMBERS** (continued)

All materials presented to Board members, except those related to closed sessions, shall be presented to student Board members at the same time they are presented to **voting other** Board members. Student Board member(s) shall also be invited to attend staff briefings or be provided with a separate staff briefing within the same timeframe as the briefing of other Board members. **In addition, all materials given to Board members by the district between meetings, except for materials that pertain to closed session items, shall be distributed to student Board members.** (Education Code 35012)

(cf. 9322 - Agenda/Meeting Materials)

Student Board member(s) shall be recognized at Board meetings as full member(s), shall be seated with other members of the Board, and shall be allowed to participate in questioning witnesses and discussing issues. (Education Code 35012)

Student Board member(s) shall be allowed to cast preferential votes on all matters except those subject to closed session discussion. *Preferential voting* means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the Board. Preferential votes shall not affect the final numerical outcome of a vote. (Education Code 35012)

(cf. 9324 - Minutes and Recordings)

Student Board member(s) may make motions that may be acted upon by the Board, except on matters dealing with employer-employee relations pursuant to Government Code 3540-3549.3. (Education Code 35012)

BB 9150(d)

## **STUDENT BOARD MEMBERS** (continued)

**Student Board members shall be appointed to subcommittees of the Board in the same manner as other Board members, be made aware of the time commitment required to participate in subcommittee meetings and work, and have the right to decline an appointment. The availability of all subcommittee members, including the availability of student Board members, may be considered when scheduling subcommittee meetings. (Education Code 35012)**

*(cf. 9130 - Board Committees)*

**Student Board members shall be invited to attend functions of the Board, such as forums, meetings with students and parents/guardians, and other general assemblies. (Education Code 35012)**

**Student Board members shall not be considered members of a legislative body for purposes of the Brown Act. (Education Code 35012)**

**A student Board member shall not be counted in determining whether a quorum of the Board is in attendance.**

~~A student Board member shall not be liable for any acts of the Board. (Education Code 35012)~~

~~*(cf. 9323.2 - Actions by the Board)*~~

~~Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the Board but shall not receive compensation for attendance at Board meetings. (Education Code 35012)~~

~~*(cf. 3350 - Travel Expenses)*~~

~~*(cf. 9250 - Remuneration, Reimbursement and Other Benefits)*~~

## **Student Board Member **Development Training****

The Superintendent or designee may, at district expense, provide learning opportunities to student Board members through trainings, workshops, and conferences, such as those offered by the California School Boards Association and other organizations, to enhance their

**STUDENT BOARD MEMBERS** (continued)

knowledge, understanding, and performance of **leadership skills and** their Board responsibilities.

*(cf. 9240 - Board Training)*

The Superintendent or designee may periodically provide ~~an orientation for~~ **information to** student Board member candidates to give them an understanding of the ~~responsibilities and expectations of Board service~~ **position. Once elected or appointed, incoming student Board members shall be provided an orientation designed to build knowledge of the district and an understanding of the responsibilities and expectations of the position.**

*(cf. 9230 - Orientation)*

**Alternate Student Board Member**

**If the Board determines that the student Board member's duties are not being fulfilled , the Board may appoint another student to serve as an alternate student Board member. If an alternate student Board member is appointed, the Board shall suspend the prior student Board member's rights and privileges related to service on the Board. (Education Code 35012)**

**Elimination of Position**

Once established, the student Board member position shall continue to exist until the Board, by majority vote of all voting Board members, approves a motion to eliminate the position. Such a motion shall be listed as a public agenda item for a Board meeting prior to the motion being voted upon. (Education Code 35012)

*Legal Reference: (see next page)*

**STUDENT BOARD MEMBERS** (continued)

*Legal Reference:*  
EDUCATION CODE

33000.5 *Appointment of student member to State Board of Education*  
35012 *Board members; number, election and terms; student members*  
**35120 Course credit for student board members**  
35160 *Authority of governing boards*  
GOVERNMENT CODE  
3540-3549.3 *Educational Employment Relations Act*  
**54950-54964 Ralph M. Brown Act**

*Management Resources:*

WEB SITES

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

California Association of Student Councils: <http://www.casc.net>

California Association of Student Leaders: <http://www.caslboard.com>

**National School Boards Association: <http://www.nsba.org>**

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# National SD Board Bylaw

Board Bylaws

BB 9323(a)

## MEETING CONDUCT

### Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

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

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

*(cf. 9121 - President)*

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and subsequently may be adjourned to a later date.

*(cf. 9320 - Meetings and Notices)*

### Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

*(cf. 9323.2 - Actions by the Board)*

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, his/her the abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

*(cf. 9270 - Conflict of Interest)*

## MEETING CONDUCT (continued)

### Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5; Government Code 54954.2)
3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board **members** or staff members may ask a question for clarification, make a brief announcement, or make a brief report on **his/her their** own activities. (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

*(cf. 9130 - Board Committees)*

**MEETING CONDUCT** (continued)

5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

**In general, individual speakers shall will be allowed three minutes to address the Board on each agenda or nonagenda item, and the Board shall will limit the total time for public input on each item to 20 minutes. However, in exceptional circumstances when necessary to ensure full opportunity for public input, With Board consent, the Board president may, with Board consent, increase or decrease adjust the amount of time allowed for public presentation input, depending on the topic and the number of persons wishing to be heard and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add. The president may also ask members of the public with the same viewpoint to select a few individuals to address the Board on behalf of that viewpoint.**

In order to ensure that non-English speakers receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

6. The Board president may rule on the appropriateness of a topic, subject to the following conditions:
  - a. If a topic would be suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.
  - b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3)
  - c. The Board shall not prohibit public criticism of district employees. However, whenever a member of the public initiates specific complaints or charges against an individual employee, the Board president shall inform the complainant of the appropriate complaint procedure.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 9321 - Closed Session Purposes and Agendas)*

**MEETING CONDUCT** (continued)

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the president to terminate the privilege of addressing the Board.

The Board may remove disruptive individuals and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement as necessary.

**Recording by the Public**

Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The Superintendent or designee may designate locations from which members of the public may make such recordings without causing a distraction.

*(cf. 9324 - Board Minutes and Recordings)*

If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

*Legal Reference: (see next page)*

## MEETING CONDUCT (continued)

### Legal Reference:

#### EDUCATION CODE

- 5095 Powers of remaining board members and new appointees
- 32210 Willful disturbance of public school or meeting a misdemeanor
- 35010 Prescription and enforcement of rules
- 35145.5 Agenda; public participation; regulations
- 35163 Official actions, minutes and journal
- 35164 Vote requirements
- 35165 Effect of vacancies upon majority and unanimous votes by seven member board

#### CODE OF CIVIL PROCEDURE

- 527.8 Workplace Violence Safety Act

#### GOVERNMENT CODE

- 54953.3 Prohibition against conditions for attending a board meeting
- 54953.5 Audio or video recording of proceedings
- 54953.6 Broadcasting of proceedings
- 54954.2 Agenda; posting; action on other matters
- 54954.3 Opportunity for public to address legislative body; regulations
- 54957 Closed sessions
- 54957.9 Disorderly conduct of general public during meeting; clearing of room

#### PENAL CODE

- 403 Disruption of assembly or meeting

#### COURT DECISIONS

- City of San Jose v. Garbett (2010) 190 Cal.App.4th 526
- Norse v. City of Santa Cruz (9th Cir. 2010) 629 F.3d 966
- McMahon v. Albany Unified School District (2002) 104 Cal.App.4th 1275
- Rubin v. City of Burbank (2002) 101 Cal.App.4th 1194
- Baca v. Moreno Valley Unified School District (1996) 936 F.Supp. 719

#### ATTORNEY GENERAL OPINIONS

- 90 Ops. Cal. Atty. Gen. 47 (2007)
- 76 Ops. Cal. Atty. Gen. 281 (1993)
- 66 Ops. Cal. Atty. Gen. 336 (1983)
- 63 Ops. Cal. Atty. Gen. 215 (1980)
- 61 Ops. Cal. Atty. Gen. 243, 253 (1978)
- 59 Ops. Cal. Atty. Gen. 532 (1976)
- 55 Ops. Cal. Atty. Gen. 26 (1972)

### Management Resources:

#### CSBA PUBLICATIONS

- Call to Order: A Blueprint for Great Board Meetings, 2015
- The Brown Act: School Boards and Open Meeting Laws, rev. 2014

#### ATTORNEY GENERAL PUBLICATIONS

- The Brown Act: Open Meetings for Local Legislative Bodies, 2003

#### WEB SITES

- CSBA: <http://www.csba.org>
- California Attorney General's Office: <https://oag.ca.gov>

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### Policy Reference UPDATE Service

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