Information Sheet – 10/10/17 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.2

FR: Celli Coeville

DATE: September 29, 2017

RE: Policy Revisions – Board Policy & Administrative Regulation Updates, Second Reading

California School Boards Association (CSBA) revisions to current district policies and administrative regulations are provided for your review. Please note that I've indicated the proposed changes in red.

Certification AR 4112.2

(AR revised) Regulation updated to (1) add verification of temporary certificates for employees whose credential applications are being processed by the Commission on Teacher Credentialing; (2) add section reflecting requirements for the Teaching Permit for Statutory Leave, as added by NEW STATE REGULATIONS (Register 2016, No. 34); and (3) add authorization for the holder of the Teaching Permit for Statutory Leave, Provisional Internship Permit, or Short-Term Staff Permit to provide substitute teaching services as specified.

Nondiscrimination/Harassment AR 5145.3

(AR revised) Regulation updated to reflect NEW LAW (SB 1375, 2016) which requires districts and schools to post specified Title IX information on their web sites. Regulation also explains the limited impact in California of the February 22, 2017 federal action to rescind earlier guidance regarding transgender students' use of sex-segregated facilities in accordance with their gender identity.

Identification and Education Under Section 504 BP/AR 6164.6

(BP/AR revised) Policy updated to add requirement to address the needs of students with disabilities in the district's local control and accountability plan. Regulation updated to reflect NEW FEDERAL REGULATIONS (81 Fed. Reg. 53203) which primarily revise definitions used in the Americans with Disabilities Act.

Recommendation Action: Approve the revised Board Policies and Administrative Regulations

CERTIFICATION

Verification of Credentials

Note: The following optional section may be revised to reflect district practice. Pursuant to Education Code 44330, 44332.5, and 44857, each person employed in a position requiring certification qualifications must register a valid credential not later than 60 days after beginning employment in the district or not later than 60 days after renewing a credential. A district with over 10,000 average daily attendance (ADA) may provide for the registration of its own certificated employees' credentials. If it does not do so, or if the district has 10,000 ADA or less, certificated employees' credentials must be registered with the county office of education. The following section may be revised to reflect district practice.

Note: The Commission on Teacher Credentialing (CTC) does not provide credentials in a paper format. Pursuant to 5 CCR 80001, the official record of a credential is information obtained from the CTC web site. If an applicant has indicated a county of employment on his/her application, the county office of education will receive a download of credential information for that applicant. For all other certificated staff, the district must obtain verification of its employees' certification through the CTC's online service and may print the displayed information.

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid certification document issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(~~cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act~~)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

Note: Pursuant to Education Code 44332, 44332.5, and 44332.6, an individual may be employed while his/her application is being processed by the CTC if he/she holds a temporary certificate issued by a district with over 10,000 ADA or the county office of education, indicating that he/she has passed the state assessment of teachers' basic skills and completed a criminal record check. As amended by AB 1918 (Ch. 127, Statutes of 2016), Education Code 44332, 44332.5, and 44332.6 require the district or county office of education, prior to issuing a temporary certificate, to obtain a certificate of clearance (fingerprint clearance) from the CTC to satisfy the criminal record check requirement.

The Superintendent or designee shall verify that any person who is employed by the district while his/her application for certification is being processed by the CTC possesses a temporary certificate based on a demonstration of basic skills and completion of a criminal background check. (Education Code 44332, 44332.5, 44332.6)

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The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

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

Basic Skills Proficiency

Note: Education Code 44830 provides that a district cannot employ an individual in a position requiring certification unless that person has met the basic skills proficiency requirement or is exempted from the requirement by law. Such exemptions are specified in Education Code 44252 and 44830. Unless exempted, persons who have been granted a credential by the CTC have met the basic skills proficiency requirement as a condition of obtaining the credential. According to CTC leaflet CL-667, Basic Skills Requirement, the basic skills proficiency requirement also may be met by passage of the California Basic Educational Skills Test, California Subject Examinations for Teachers: Multiple Subject Plus Writing Skills Examination, California State University Early Assessment Program, California State University Placement Examinations, or a basic skills examination from another state.

The district shall not initially hire a person in a position requiring certification, on a permanent, temporary, or substitute basis, unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

The district may hire a certificated employee who has not taken a test of basic skills proficiency if he/she has not yet been afforded the opportunity to take the test, provided that he/she takes the test at the earliest opportunity. The employee may remain employed by the district pending the receipt of his/her test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being issued a California preliminary credential by the CTC unless he/she has completed a basic skills proficiency test in another state or is otherwise exempted by law. The district shall develop a basic skills proficiency test, which shall be at least equivalent to the district test required for high school graduation, for purposes of assessing out-of-state prepared teachers pending completion of the basic skills requirement. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.2 - Certificate of Proficiency)
(cf. 6162.5 - High School Exit Examination)

***Note: Pursuant to Education Code 44252 and 44830, persons holding or applying for a "designated subjects special subjects" credential must be assessed with a district basic skills proficiency test, unless their credential requires possession of a bachelor's degree in which case they are required to meet the state basic skills proficiency requirement. When such

CERTIFICATION (continued)

persons are employed by a consortium of districts or a joint powers agreement, the test may instead be established by the boards of those entities.***

Any person holding or applying for a "designated subjects special subjects" credential which does not require possession of a bachelor's degree shall pass a district proficiency test in lieu of meeting the state basic skills proficiency requirement. (Education Code 44252, 44830)

The district may charge a fee to cover the costs of developing, administering, and grading the district proficiency test. (Education Code 44252, 44830)

Short-Term Staff Permit

Note: 5 CCR 80021 establishes the short-term staff permit (STSP) to immediately fill teacher vacancies based on unforeseen circumstances. Pursuant to 5 CCR 80021, the CTC will issue the STSP to an individual only once and for no more than one year. The STSP will expire no later than July 1, unless the STSP is for a summer school assignment in which case the STSP will expire no later than September 1.

The district may request that the CTC issue a short-term staff permit (STSP) to a qualified applicant whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher

2. Inability of the teacher of record to finish the school year due to approved leave or illness

3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved intern program

4. Inability of the applicant to enroll in an approved intern program due to timelines or lack of space in the program

5. Unavailability of a third-year extension of an intern program or the applicant's withdrawal from an intern program

The Superintendent or designee shall ensure that the applicant possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021 for the multiple subject, single subject, or education specialist STSP as appropriate. (5 CCR 80021)

When requesting issuance of an STSP, the Superintendent or designee shall submit to the CTC: (5 CCR 80021)

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1. Verification that the district has conducted a local recruitment for the permit being requested

2. Verification that the district has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit

(cf. 4131 - Staff Development)
(cf. 4131.1 - Teacher Support and Guidance)

3. Written justification for the permit signed by the Superintendent or designee

Note: 5 CCR 80021 provides that a holder of the STSP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). 5 CCR 80021 provides that all STSPs will also include an English learner authorization allowing the holder to provide services in English language development (ELD) or specially designed academic instruction in English (SDAIE); see AR 4112.22 - Staff Teaching English Learners. Upon request by the district and verification of the applicant's target-language proficiency, the STSP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.

The holder of an STSP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

Provisional Internship Permit

Note: 5 CCR 80021.1 establishes the provisional internship permit (PIP) to staff classrooms when appropriately credentialed teachers cannot be found after a diligent search. 5 CCR 80021.1 provides that the PIP will be issued for one calendar year and may not be renewed.

Before requesting that the CTC issue a provisional internship permit (PIP), the district shall conduct a diligent search for a suitable credentialed teacher or intern, including, but not be limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. (5 CCR 80021.1)

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

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that the CTC issue a PIP to an applicant who possesses a bachelor's or higher degree from a regionally accredited college or university, has

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met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021.1 for the multiple subject, single subject, or education specialist PIP as appropriate. (5 CCR 80021.1)

When submitting the request for a PIP, the district shall provide verification of all of the following: (5 CCR 80021.1, 80026.5)

1. A diligent search has been conducted for a suitable credentialed teacher or suitable qualified intern as evidenced by documentation of the search.

2. Orientation, guidance, and assistance shall be provided to the permit holder as specified in 5 CCR 80026.5.

   The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience.

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.

4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.

5. A notice of intent to employ the applicant in the identified position has been made public.

   The district shall submit a copy of the agenda item presented at a public Governing Board meeting which shall state the name of the applicant, the assignment in which the applicant will be employed including the name of the school, subject(s), and grade(s) that he/she will be teaching, and that the applicant will be employed on the basis of a PIP. The district also shall submit a signed statement from the Superintendent or designee that the agenda item was acted upon favorably.

6. The candidate has been apprised of steps to earn a credential and enroll in an intern program.

***Note: 5 CCR 80021.1 provides that a holder of the PIP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). In addition, 5 CCR 80021.1 provides that all

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PIPs will include an English learner authorization allowing the holder to provide services in ELD or SDAIE; see AR 4112.22 - Staff Teaching English Learners. Upon request by the district and verification of the applicant's target-language proficiency, the PIP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.***

The holder of a PIP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021.1)

Teaching Permit for Statutory Leave

Note: 5 CCR 80022, as added by Register 2016, No. 34, establishes the Teaching Permit for Statutory Leave (TPSL), which authorizes the holder to serve as the interim teacher of record when a teacher takes a statutory leave. The applicable statutory leaves are specified in 5 CCR 80022 and, as clarified by CTC Coded Correspondence 16-10, exclude administrative leave. The TPSL is valid for one calendar year from the first day of the month immediately following the date of issuance, but may be renewed on an annual basis provided that the holder completes additional requirements as specified and the district verifies that it will provide continued mentoring and support.

Note: Qualifications required for the TPSL include possession of a bachelor's or higher degree, completion of the basic skills requirement, completion of a subject-matter requirement, and 45 hours of preservice preparation in the content areas listed in 5 CCR 80022. The design and delivery of the preservice preparation are at the discretion of the district and, as described in CTC Coded Correspondence 16-10, may include existing training and development programs, new preparation courses or modules, and/or partnerships with the county office of education, neighboring districts, colleges and universities, or private companies. The CTC does not accredit or oversee any TPSL preparation. The following paragraph may be revised to reflect district practice.

Whenever there is an anticipated need for the district to temporarily fill the teaching assignment of a teacher of record who will be on sick leave, differential sick leave, industrial accident or illness leave, pregnancy disability leave, or family care and medical leave under the federal Family and Medical Leave Act or California Family Rights Act, the Superintendent or designee may request that the CTC issue a Teaching Permit for Statutory Leave (TPSL) to a qualified individual who will be serving as the interim teacher of record. Prior to submitting an application to the CTC, the district shall provide the applicant with 45 hours of preparation in the content areas listed in 5 CCR 80022. (5 CCR 80022)

(cf. 4161.1 - Personal Illness and Injury Leave)
(cf. 4161.11 - Industrial Accident/Illness Leave)
(cf. 4161.8 - Family Care and Medical Leave)

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A request for the TPSL shall only be submitted if the district has made reasonable efforts to hire a substitute with a full teaching credential that matches the setting and/or subject for the statutory leave position and no such candidate is available. (5 CCR 80022)

The district shall verify to the CTC that it will provide the interim teacher: (5 CCR 80022)

1.An orientation to the assignment before or during the first month of service in the statutory leave assignment

2.An average of two hours of mentoring, support, and/or coaching per week through a system of support coordinated and/or provided by a mentor who possesses a valid life or clear credential that would also authorize service in the statutory leave assignment

3.Lesson plans for the first four weeks of the assignment as well as continued assistance in the development of curriculum, lesson planning, and individualized education programs

Note: The TPSL authorizes the interim teacher of record to serve for the full length of the statutory leave. CTC Coded Correspondence 16-10 clarifies that, when more than one acceptable leave is taken consecutively, the holder of the TPSL may continue to serve as the interim teacher of record for the entire length of those leaves.

The holder of the TPSL may serve as the interim teacher of record for up to the full length of the leave(s) during the school year. (5 CCR 80022)

The Superintendent or designee shall maintain documentation on the assignment in accordance with 5 CCR 80022. He/she shall annually report data on the use of the TPSL to the County Superintendent of Schools for assignment monitoring pursuant to Education Code 44258.9. (5 CCR 80022)

(cf. 4113 - Assignment)

The Superintendent or designee may annually request renewal of the TPSL, provided that no substitute with a full teaching credential is available for the assignment. The application for each reissuance shall include verification that the interim teacher has completed an additional 45 hours of preparation and the district is continuing to provide mentoring in accordance with items #2-3 above. (5 CCR 80022)

Long-Term Emergency Permits

***Note: Pursuant to Education Code 44225.7, the district may request that the CTC grant an applicant a one-year emergency permit (Education Code 44300; 5 CCR 80023-80026.6) when a "fully prepared teacher," defined as a teacher who has completed a teacher preparation program, is unavailable to the district. Emergency permits may only be issued for the resource specialist permit (5 CCR 80024.3.1), teacher librarian services permit (5 CCR 80024.6), crosscultural, language and academic development permit (5 CCR 80024.8), and

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bilingual authorization permit (5 CCR 80024.7).***

Note: Pursuant to 5 CCR 80023.1, an emergency permit may be renewed for up to two additional one-year periods (for a maximum of three years of service).

Note: In order to request an emergency permit, the district must first demonstrate that it has made reasonable efforts to recruit candidates who are enrolled in an intern program or are scheduled to complete preliminary credential requirements within six months and must submit a Declaration of Need for Fully Qualified Educators; see the accompanying Board policy.

As necessary, the Superintendent or designee may request that the CTC issue an emergency resource specialist permit, emergency teacher librarian services permit, emergency crosscultural language and academic development permit, or emergency bilingual authorization permit. (5 CCR 80024.3.1, 80024.6, 80024.7, 80024.8)

The Superintendent or designee shall provide any first-time recipient of an emergency teaching permit with an orientation which, to the extent reasonably feasible, shall occur before he/she begins a teaching assignment. The Superintendent or designee may vary the nature, content, and duration of the orientation to match the amount of training and experience previously completed by the emergency permit teacher. The orientation shall include, but not be limited to, the curriculum the teacher is expected to teach and effective techniques of classroom instruction and classroom management at the assigned grade-level span. The emergency permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

~~Emergency~~ Substitute Teaching Permits

~~For day-to-day substitute teaching at any grade level~~, The district may employ a person whose credential or permit authorizes substitute teaching services, ~~with an emergency substitute permit issued by the CTC~~, provided that:

Note: 5 CCR 80025.3, as amended by Register 2016, No. 34, authorizes the holder of the STSP, PIP, or TPSL to provide day-to-day substitute teaching services for up to 30 days for a general education teacher or 20 days for a special education teacher.

1. A person holding an emergency 30-day substitute teaching permit, STSP, PIP, TPSL, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the California Basic Educational Skills Test ~~CBEST~~, shall not serve as a substitute for more than 30 days for any one teacher during the school year. He/she shall not serve as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)

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2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)

3. A person with an emergency substitute teaching permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)

4. A person with an emergency designated subject's 30-day substitute teaching permit for career technical education shall teach only in a program of technical, trade, or vocational education and not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Note: 5 CCR 80025 and 80025.5 require the district to have a Statement of Need on file before employing a person with an emergency substitute permit pursuant to item #1 or 4 above. The CTC form for the Statement of Need may be found in the CTC's online Credential Information Guide, which may be accessed only by employers.

Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

NONDISCRIMINATION/HARASSMENT

***Note: The following mandated administrative regulation provides measures that may be implemented by a district to comply with state and federal laws and regulations prohibiting, at school or in school-sponsored or school-related activities, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, of any student based on his/her actual or perceived race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression, or any other legally protected category or association with a person or group with one or more of these actual or perceived characteristics. Federal and state law also prohibit retaliation against those who engage in activity to protect civil rights. ***

***Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying. In addition, 34 CFR 106.8 and other federal regulations mandate districts that receive federal financial assistance to adopt procedures for the "prompt and equitable" resolution of student and employee discrimination complaints, including the designation of one or more responsible employees to ensure district compliance with federal laws and regulations governing the district's educational programs. ***

***Note: During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for investigating complaints. The U.S. Department of Education's (USDOE) Office for Civil Rights (OCR) is the agency responsible for the administrative enforcement of federal antidiscrimination laws and regulations in programs and activities that receive federal financial assistance from the department. In reviewing a district's discrimination policies and procedures, OCR will examine whether the district has identified the employee(s) responsible for coordinating compliance with federal civil rights laws, including the investigation of complaints. ***

***Note: The following paragraphs identify the employee(s) designated to coordinate the district's efforts to comply with state and federal civil rights laws (e.g. Title IX and Section 504 coordinators), including the investigation and resolution of discrimination complaints under AR 1312.3 - Uniform Complaint Procedures. Note also that a district may designate more than one employee to coordinate compliance and/or receive and investigate complaints, although each employee designated as a coordinator/compliance officer must be properly trained. ***

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the district's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures

NONDISCRIMINATION/HARASSMENT (continued)

as the responsible employee to handle complaints ~~regarding~~ alleging unlawful discrimination targeting a student, including discriminatory harassment, intimidation, or bullying, based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other legally protected status ~~; the perception of one or more of such characteristics;~~ or association with a person or group with one or more of these actual or perceived characteristics. The coordinator/compliance officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Director of Human Resources
1219 Whispering Wind Dr.
Tracy, CA 95377

or

Director of Special Education
1219 Whispering Wind Dr.
Tracy, CA 95377

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

***Note: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, CDE is required to ensure that the district posts its nondiscrimination policies in all schools, offices, staff lounges, and student government meeting rooms. In addition, federal regulations enforced by OCR require the district to notify students, parents/guardians, and employees of its policies prohibiting discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25) and of related complaint procedures. ***

***Note: Item #1 below may be revised to specify the means by which the district publicizes its nondiscrimination policies and complaint procedures. ***

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public ~~and post them~~ by posting them on the district's web site and other prominent locations and providing easy access to them through district-supported social media, when available. ~~that are easily accessible to students. (Education Code 234.1)~~

NONDISCRIMINATION/HARASSMENT (continued)

~~*(cf. 1113 - District and School Web Sites)*~~
~~*(cf. 1114 - District-Sponsored Social Media)*~~

***Note: Education Code 221.61, as added by SB 1375 (Ch. 655, Statutes of 2016), requires districts and public schools to post on their web sites information related to Title IX (20 USC 1681-1688). A comprehensive list of rights based on the federal regulations implementing Title IX can be found in Education Code 221.8. A district that does not maintain a web site may comply by posting the information below on the web site of its county office of education. A school without a web site may comply by posting the information on the web site of the district or county office of education. ***

2. Post in a prominent and conspicuous location on the district and school web sites information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following: (Education Code 221.61)

a. The name and contact information of the district's Title IX coordinator, including the phone number and email address

b. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)

c. A description of how to file a complaint of noncompliance with Title IX in accordance with AR 1312.3 - Uniform Complaint Procedures, which shall include:

(1) An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations

(2) An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on the OCR's web site

(3) A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

~~2.~~ 3. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior. (Education Code 234.1)

NONDISCRIMINATION/HARASSMENT (continued)

***Note: In its October 2010 Dear Colleague Letter: Harassment and Bullying, OCR identifies training of the school community as one of the key measures for minimizing discriminatory and harassing behavior in school. See also CSBA's policy brief Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students. Item #4 below may be modified to reflect district practice. ***

~~3.~~ 4. Annually notify all students and parents/guardians of the district's nondiscrimination policy~~.~~ , including its responsibility to provide a safe, nondiscriminatory school environment for all students, including transgender and gender-nonconforming students. The notice shall inform students and parents/guardians that they may request to meet with the compliance officer to determine how best to accommodate or resolve concerns that may arise from the district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns in private. ~~of the possibility that students will participate in a sex-segregated school program or activity together with another student of the opposite biological sex, and that they may inform the compliance officer if they feel such participation would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the compliance officer shall meet with the student and/or parent/guardian who raises the objection to determine how best to accommodate that student. The notice shall inform students and parents/guardians that the district will not typically notify them of individual instances of transgender students participating in a program or activity.~~

(cf. 5145.6 - Parental Notifications)

***Note: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires school districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2002 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on balancing four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English. ***

~~4.~~ 5. The Superintendent or designee shall ensure that ~~all~~ students and parents/guardians, including those ~~students and parents/guardians~~ with limited English proficiency, are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand. If 15

NONDISCRIMINATION/HARASSMENT (continued)

percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

~~5.~~ 6. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include details of guidelines ~~for addressing issues related to~~ the district may use to provide a discrimination-free environment for all district students~~,~~ including transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

~~6.~~ 7. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so. (Education Code 234.1)

***Note: Item #8 below may be revised to reflect district practice. In some situations, the district may need to provide assistance to a student to protect him/her from harassment or bullying. Each situation will need to be analyzed to determine the most appropriate course of action to meet the needs of the student, based on the circumstances involved. ***

~~7.~~ 8. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.

Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce BP 5145.3 - Nondiscrimination/Harassment. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond

NONDISCRIMINATION/HARASSMENT (continued)

3. Disseminating and/or summarizing the district's policy and regulation regarding unlawful discrimination

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to students, parents/guardians, and the community

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action against students, employees, ~~perpetrators~~ and anyone determined to have engaged in wrongdoing in violation of district policy, including any student who is found to have filed ~~made~~ a complaint of discrimination that he/she knew was not true

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Process for Initiating and Responding to Complaints

***Note: Education Code 234.1 requires that districts adopt a process for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying. Such a process, which is required to be consistent with the uniform complaint procedures specified in 5 CCR 4600-4687, must include (1) a requirement that school personnel who witness an act take immediate steps to intervene when safe to do so, (2) a timeline for investigating and resolving complaints, (3) an appeal process, and (4) translation of forms when required by Education Code 48985. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). OCR guidance on federal civil rights requirements notes that districts may have a responsibility to respond to notice of discrimination whether or not a formal complaint is filed. In addition, in its April 2011 Dear Colleague Letter: Sexual Violence, OCR cautions that districts may have an obligation to respond to notice of sexual harassment of students which occurs off school grounds or outside school-sponsored or school-related programs or activities, since the sexual harassment may still create a hostile environment at school. This principle would also apply to harassment on other bases, such as race, gender, or disability. ***

Any student who feels that he/she has been subjected to unlawful discrimination described above or in district policy is strongly encouraged to immediately contact the compliance officer, principal, or any other staff member. In addition, any student who observes any such incident is strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint.

NONDISCRIMINATION/HARASSMENT (continued)

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

***Note: Though a formal complaint must be in writing pursuant to 5 CCR 4600, the district's obligation to provide a safe school environment for its students overrides the need to comply with formalities. Thus, once the district receives notice of an incident, whether verbally or in writing, it is good practice to begin the investigation of the report and to take steps to stop any prohibited conduct and address any effect on students. The following paragraph reflects such practice and is consistent with OCR recommendation. ***

When a verbal ~~any~~ report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made ~~submitted~~ to or received by the principal or compliance officer, he/she shall make a note of the report and encourage the student or parent/guardian to file the complaint in writing, ~~inform the student or parent/guardian of the right to file a formal complaint~~ pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures. Once notified verbally or in writing, the principal or compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging ~~of~~ unlawful discrimination by ~~involving~~ the principal, compliance officer, or any other person to whom a report ~~the complaint~~ would ordinarily be made ~~reported~~ or complaint filed shall instead be made ~~submitted~~ to or filed with the Superintendent or designee who shall determine how the complaint will be investigated. ~~Even if the student chooses not to file a formal complaint, the principal or compliance officer shall implement immediate measures necessary to stop the discrimination and to ensure all students have access to the educational program and a safe school environment.~~

~~Upon receiving a complaint of discrimination, the compliance officer shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3.~~

(cf. 5141.4 - Child Abuse Prevention and Reporting)

NONDISCRIMINATION/HARASSMENT (continued)

Transgender and Gender-Nonconforming Students

***Note: The following section may be modified to reflect district practice. Pursuant to Education Code 221.5, a district is required to permit a student to use facilities and participate in sex-segregated school programs and activities consistent with the student's gender identity, regardless of the gender listed on his/her educational records. Because Education Code 221.5 affords transgender students these rights, districts in California are not impacted by the February 22, 2017 action of the USDOE and U.S. Department of Justice to rescind earlier federal guidance which had indicated that, under Title IX, students must be allowed to use sex-segregated facilities in accordance with their gender identity. In implementing state law, districts may review recommended practices in the USDOE's Office of Elementary and Secondary Education's Examples of Policies and Emerging Practices for Supporting Transgender Students. For more information on the rights of transgender students, see CSBA's policy brief Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students and its Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Discrimination. ***

Gender identity of a student means the ~~a~~ student's gender-related identity, appearance, or

behavior as determined from the student's internal sense of his/her gender, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

Transgender student means a student whose gender identity ~~or gender expression~~ is different from the gender he/she was ~~that traditionally associated with the~~ assigned ~~sex~~ at birth.

Regardless of whether they are sexual in nature, acts ~~Acts~~ of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment are prohibited. ~~regardless of whether they are sexual in nature, where the act has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment are prohibited under state and federal law~~. Examples of the types of conduct which are prohibited in the district and which may

NONDISCRIMINATION/HARASSMENT (continued)

constitute gender-based harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with his/her gender identity

2. Disciplining or disparaging a student or excluding him/her from participating in activities for behavior or appearance that is consistent with his/her gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable ~~transgender student because his/her mannerisms, hairstyle, or style of dress correspond to his/her gender identity, or a non-transgender student because his/her mannerisms, hairstyle, or style of dress do not conform to stereotypes for his/her gender or are perceived as indicative of the other sex~~

3. Blocking a student's entry to the bathroom that corresponds to his/her gender identity ~~because the student is transgender or gender-nonconforming~~

4. Taunting a student because he/she participates in an athletic activity more typically favored by a student of the other sex

5. Revealing a student's transgender status to individuals who do not have a legitimate need for the information, without the student's consent

6. Use of gender-specific slurs

7. Physical assault of a student motivated by hostility toward him/her because of his/her gender, gender identity, or gender expression

The district's uniform complaint procedures (AR 1312.3) shall be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students.

Examples of bases for complaints include, but are not limited to, the above list as well as improper rejection by the district of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student's transgender status, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the district shall address each situation on a case-by-case basis, in accordance with the following guidelines:

***Note: Timelines included in items #1-2 below may be modified to reflect district practice. ***

1. Right to privacy: A student's transgender or gender-nonconforming status is his/her private information and the district shall ~~will~~ only disclose the information to others with the student's prior written consent, except when the disclosure is otherwise required by law or when

NONDISCRIMINATION/HARASSMENT (continued)

the district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. In any case, the district shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the district pursuant to 34 CFR 99.31. ~~In the latter instance, the district shall limit disclosure to individuals reasonably believed to be able to protect the student's well-being~~. Any district employee to whom a student's transgender ~~student discloses his/her transgender~~ or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a district employee by a student, the employee shall seek the student's permission to notify the compliance officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless he/she is required to disclose or report the student's information pursuant to this administrative regulation ~~procedure~~, and shall inform the student that honoring the student's request may limit the district's ability to meet the student's needs related to his/her status as a transgender or gender-nonconforming student. If the student permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the student's need for support, ~~physical, emotional, and other significant risks to the student,~~ the compliance officer may discuss ~~consider discussing~~ with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to his/her parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The district shall offer support services, such as counseling, to

students who wish to inform their parents/guardians of their status and desire assistance in doing so.

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

2. Determining a Student's Gender Identity: The compliance officer shall accept the student's assertion of his/her gender identity and begin to treat the student consistent with his/her gender identity unless district personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose. ~~In such a case, the compliance officer shall document the improper purpose and, within seven school days of receiving notification of the student's assertion, shall provide a written response to the student and, if appropriate, to his/her parents/guardians.~~

3. Addressing a Student's Transition Needs: The compliance officer shall arrange a meeting with the student and, if appropriate, his/her parents/guardians to identify ~~potential issues, including transition-related issues,~~ and ~~to~~ develop strategies for ensuring that the student's access to education programs and activities is maintained ~~for addressing them~~. The meeting shall discuss the transgender or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the compliance officer shall identify specific school site employee(s) to whom the student may report any problem related to his/her status as a transgender or gender-nonconforming individual,

NONDISCRIMINATION/HARASSMENT (continued)

so that prompt action could be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the ~~student's~~ arrangements for the student are meeting his/her educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.

4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the ~~The~~ district maintains ~~may maintain~~ sex-segregated facilities, such as restrooms and locker rooms, or offers ~~and~~ sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted ~~. A student shall be entitled~~ to access facilities and participate in programs and activities consistent with their ~~his/her~~ gender identity. To address any student's privacy concerns in using sex-segregated facilities, ~~If available and requested by any student, regardless of the underlying reason,~~ the district shall offer available options ~~to address privacy concerns in sex-segregated facilities,~~ such as a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, access to a staff member's office, or use of the locker room before or after the other students. However, the district shall not require a student to utilize these options because he/she is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with his/her gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with his/her gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6153 - School-Sponsored Trips)
(cf. 7110 - Facilities Master Plan)

***Note: 5 CCR 432 requires the legal name, sex, date of birth, etc., of a student to be maintained as part of the student's "mandatory permanent student records" but does not prohibit keeping of other records, such as a student's preferred name, as part of the student's "permitted student records." ***

5. Student Records: A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed pursuant to a court order. However, at the written request of a student or, if appropriate, his/her parents/guardians, the district shall use the student's preferred name and pronouns consistent with his/her gender identity on all other district-related documents. Such preferred name may be added to the student's record and official documents as permitted by law.

(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

NONDISCRIMINATION/HARASSMENT (continued)

6. Names and Pronouns: If a student so chooses, district personnel shall be required to address the student by a name and the pronouns consistent with his/her gender identity, without the necessity of a court order or a change to his/her official district record. However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns will, in general, ~~shall~~ not constitute a violation of this administrative regulation or the accompanying district policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with his/her gender identity, subject to any dress code adopted on a school site.

(cf. 5132 - Dress Code)

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794; 34 CFR 104.1-104.39). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.

Note: A student may be identified as a student with a disability under Section 504 even though he/she is not identified as a child with a disability under the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for special education and related services under the IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

The Governing Board believes that all children, including children with disabilities, should have an opportunity to learn in a safe and nurturing environment. The district shall work to identify children with disabilities who reside within its jurisdiction in order to ensure that they receive educational and related services required by law.

Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities; see BP 0410 - Nondiscrimination in District Programs and Activities.

The Superintendent or designee shall provide ~~identified~~ qualified students with disabilities with a free appropriate public education (FAPE), as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.

In addition, qualified students with disabilities shall be provided an equal opportunity to

participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6145.5 - Student Organizations and Equal Access)

Note: The following optional paragraph may be revised to reflect district practice. Education Code 52060 requires that the district adopt a local control and accountability plan (LCAP) that includes annual goals, aligned with specified state priorities, to be achieved for all students and for each numerically significant subgroup as defined in Education Code 52052. Pursuant to Education Code 52052, students with disabilities are one of the numerically significant subgroups whose needs must be addressed in the LCAP, when there are at least 30 students with disabilities in the district or a school. See BP/AR 0460 - Local Control and Accountability Plan.

The district's local control and accountability plan shall include goals and specific actions to improve student achievement and other outcomes of students with disabilities. At least annually, the Superintendent or designee shall assess the district's progress in attaining the goals established for students with disabilities and shall report these results to the Board. (Education Code 52052, 52060)

(cf. 0460 - Local Control and Accountability Plan)

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

Note: The following optional paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.

The Superintendent or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Legal Reference: (see next page)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Legal Reference:

EDUCATION CODE
49423.5 Specialized physical health care services
52052 Numerically significant student subgroups
52060-52077 Local control and accountability plan
56043 Special education, timelines
56321 Assessment; development of IEP; parental notifications, consent
CODE OF REGULATIONS, TITLE 5
3051.12 Health and Nursing Services
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Education Act
UNITED STATES CODE, TITLE 29
705 Definitions; Vocational Rehabilitation Act
794 Rehabilitation Act of 1973, Section 504
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
CODE OF REGULATIONS, TITLE 28
35.101-35.190 Nondiscrimination on the basis of disability in state and local government services
CODE OF FEDERAL REGULATIONS, TITLE 34
104.1-104.61 Nondiscrimination on the basis of handicap, especially:
104.1 Purpose to effectuate Section 504 of the Rehabilitation Act of 1973
104.3 Definitions
104.32 Location and notification
104.33 Free appropriate public education
104.34 Educational setting
104.35 Evaluation and placement
104.36 Procedural safeguards
104.37 Nonacademic services
104.7 Responsible employee; grievance procedures
COURT DECISIONS
Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:

CSBA PUBLICATIONS
Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, November 2007
CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES
Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007
U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter and Resource Guide on Students with ADHD, July 2016
Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, October 2015
Dear Colleague Letter; January 2013
Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools; January 2012
Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www2.ed.gov/about/offices/list/ocr

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794) prohibits discrimination on the basis of disability. The following optional administrative regulation focuses on district procedures for identifying and evaluating students who are eligible to receive a free appropriate public education (FAPE) under Section 504 and is consistent with guidance from the U.S. Department of Education Office for Civil Rights (OCR), which is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates.

Note: Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504. The district should fill in the blanks below to specify the position title and contact information of the designated employee(s).

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Director of Human Resources and Curriculum
1219 Whispering Wind Drive
209-836-3388

Definitions

Note: The following definitions are consistent with the Americans with Disabilities Act (ADA) Amendments Act of 2008 (42 USC 12101-12213), and its implementing regulations (28 CFR 35.101-35.190, as amended by 81 Fed. Reg. 53203).

For the purpose of implementing Section 504 ~~of the Rehabilitation Act of 1973~~, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of students without disabilities ~~nondisabled students~~ are met, at no ~~without~~ cost to the student or his/her parent/guardian, except when a fee is specifically authorized by law for all students. ~~imposed on nondisabled students.~~ (34 CFR 104.33)
(cf. 3260 - Fees and Charges)

Note: As added by 81 Fed. Reg. 53203, 28 CFR 35.108 expands and clarifies the definition of "disability" and its associated terms. In general, the term "disability" must be interpreted broadly, in favor of providing "expansive coverage" to the maximum extent permitted by the ADA.

Student with a disability means a student who has a physical or mental impairment which

IDENTIFICATION AND EDUCATION UNDER SECTION 504

substantially limits one or more major life activities. (28 CFR 35.108) ~~(34 CFR 104.3)~~

Note: As added by 81 Fed. Reg. 53203, 28 CFR 35.108 defines "physical and mental impairment" and provides a nonexhaustive list of conditions that qualify as physical and mental impairments, updated to include dyslexia, attention deficit hyperactivity disorder (ADHD), and disorders and conditions affecting the immune and circulatory systems. In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more ~~of the following~~ body systems such as ~~:~~ neurological, ~~;~~ musculoskeletal, special sense organs, ~~;~~ respiratory~~,~~ (including speech organs), ~~;~~ cardiovascular, ~~;~~ reproductive, digestive, genito-urinary, ~~;~~ hemic, ~~and~~ lymphatic, ~~;~~ skin,~~;~~ and endocrine. (28 CFR 35.108) ~~(34 CFR 104.3)~~

Mental impairment means any mental or psychological disorder, such as intellectual disability ~~mental retardation~~, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (28 CFR 35.108) ~~(34 CFR 104.3)~~

Note: 28 CFR 35.108, as added by 81 Fed. Reg. 53203, requires the term "substantially limits" to be construed broadly. An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. Such comparison usually does not require scientific, medical, or statistical evidence. An impairment need not prevent or significantly or severely restrict the performance of a major life activity in order to qualify as substantially limiting.

Note: 28 CFR 35.108 also provides that (1) in determining whether or not an impairment substantially limits a major life activity, the ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses, may not be considered; (2) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and (3) an impairment that substantially limits one major life activity need not substantially limit other major life activities in order to be considered a substantially limiting impairment.

Note: Additionally, 28 CFR 35.108 expands the definition of "major life activities" to include the operation of specific major bodily functions.

Substantially limits major life activities means limiting a person's ability to perform functions, as compared to most people in the general population, such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, and working. Major life activities also includes major bodily functions such as functions of the

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immune system, special sense organs and skin, normal cell growth, ~~and~~ digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions as well as the operation of an individual organ within a body system. The determination of whether an impairment substantially~~.~~ ~~Substantially~~ limits a student's major life activities shall be made ~~determined~~ without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures are measures that an individual may use to eliminate or reduce the effects of an impairment, including, ~~include,~~ but ~~are~~ not limited to, medications, medical supplies or equipment, prosthetic devices, assistive devices, reasonable modifications or auxiliary aids or services, learned behavioral~~,~~ or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy. ~~which an individual may use to eliminate or reduce the effects of an impairment.~~ (42 USC 12102; 28 CFR 35.108) ~~(42 USC 12102; 34 CFR 104.3)~~

Referral, Identification, and Evaluation

***Note: 34 CFR 104.35 requires the district to conduct an evaluation of any student who needs or is believed to need special education or related services under Section 504. However, the law does not require a specific procedure for referral of a student for the evaluation. Items #1-2 below provide such a procedure and should be modified to reflect district practice.**

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If ~~it is determined that~~ the student needs or is believed to need special education or

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related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement. (34 CFR 104.35)

Note: OCR has interpreted Section 504 to require districts to obtain parent/guardian permission for initial evaluations. Although the law is silent on the form of parent/guardian consent, it is recommended that the district obtain such consent in writing. The following paragraph should be modified to reflect district practice.

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

Note: 34 CFR 104.35 requires that the district's evaluation and placement procedures include the elements specified in items #a-c below.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers

b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient

c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

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Note: While there is no specific requirement that a Section 504 services plan (sometimes called an accommodation plan) be in writing, it is strongly recommended that the district develop a written plan for each student detailing the regular and/or special education and related services that the student will be provided in order to ensure that the student is receiving FAPE in accordance with 34 CFR 104.33.

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.26 - Tuberculosis Testing)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a ~~disabled~~ person with a disability under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.

4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)

Note: The law does not specify a time frame for completion of the evaluation and placement process, but OCR requires completion within "a reasonable amount of time." Generally, compliance with the timelines in the IDEA will be considered "reasonable" and thus in compliance with Section 504. However, Section 504 does not provide for an automatic suspension of the timelines during extended breaks or when schools are not in session, as is permitted for the IDEA-associated timelines pursuant to Education Code 56043 and 56321. For timelines under the IDEA, see AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

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5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame. The district shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.

6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5125 - Student Records)

Review and Reevaluation

Note: 34 CFR 104.35 requires the district to establish procedures for the periodic reevaluation of a student who has been identified as needing services under Section 504. A reevaluation procedure consistent with the IDEA is one means of meeting this requirement. The following section should be modified to reflect district practice.

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of ~~nondisabled~~ students without disabilities are met. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

Note: As part of its responsibilities pursuant to 34 CFR 104.35, the district is required to reevaluate a student's needs before a significant change in his/her placement. Examples of actions that might constitute a "significant change in placement" triggering a reevaluation include, but are not limited to, expulsions; suspensions that exceed 10 school days within a school year; or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Procedural Safeguards

***Note: 34 CFR 104.36 requires districts to adopt a system of procedural safeguards which must include the rights of parents/guardians to receive notice, examine relevant records, have

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an impartial hearing in which they would have an opportunity to participate and be represented by legal counsel, and a process for review of the hearing and decision as detailed in the following section.***

Note: Timelines suggested in this section should be revised to reflect district practice; however, OCR requires that the due process hearing procedures be completed within a "reasonably prompt time frame."

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

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

Note: 34 CFR 104.36 requires that the district's procedural safeguards for Section 504 include an impartial hearing to resolve disagreements about the provision of FAPE. This Section 504 due process hearing is separate from the due process hearing procedures under the IDEA and from the district's uniform complaint procedures, which are used to resolve complaints regarding discriminatory treatment (e.g., harassment or accessibility issues). See BP/AR 1312.3 - Uniform Complaint Procedures.

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.

Note: According to OCR, the parent/guardian cannot be required to participate in an administrative review prior to exercising his/her right to a Section 504 due process hearing. Districts with questions should consult legal counsel, as appropriate.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, he/she may request a Section 504 due process hearing.

Section 504 due process hearing shall be conducted in accordance with the following procedures:

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1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:

a. The specific nature of the decision with which he/she disagrees

b. The specific relief he/she seeks

c. Any other information he/she believes is pertinent to resolving the disagreement

2. Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.

4. The parties to the hearing shall be afforded the right to:

a. Be accompanied and advised by legal counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504

b. Present written and oral evidence

c. Question and cross-examine witnesses

d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

(cf. 5145.6 - Parental Notifications)