



Please copy and distribute to all board members, the superintendent and other appropriate staff.

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Customer satisfaction is our goal

If you have any comments, suggestions or questions about CSBA's sample policies and regulations or our various policy services, please contact Martin Gonzalez, assistant executive director, Governance and Policy Services, at (800) 266-3382 or mgonzalez@csba.org.

A. New legislation impacts policy

As the 2007 legislative session came to a close, Governor Schwarzenegger had signed 750 bills, over 120 of which impact K-12 education and have implications for district policies and regulations. Some of the major issues are addressed in CSBA's December policy updates.

Exit exam settlement

AB 347 (Ch. 526) is the legislation finalizing the terms of the settlement in the *Valenzuela v. O'Connell* lawsuit. In this suit, the plaintiffs alleged that they did not have an equal opportunity to pass the exit exam due to unfair allocation of supplemental funding and that English learners were disadvantaged. The resulting bill affects several of CSBA's sample policies and administrative regulations as follows:

Supplemental instruction

AB 347 amended Education Code 37254 to require districts receiving CAHSEE intensive intervention funding to offer intensive instruction and services to students for up to two years after the completion of grade 12 or until they pass both parts of the exam, whichever comes first. Furthermore, in addition to offering English language arts and/or mathematics instruction that students need to pass the exam, AB 347 requires districts to provide English learners with instruction to improve English proficiency as needed to pass the exam. BP 6146.1 - High School Graduation Requirements and BP/AR 6179 - Supplemental Instruction have been revised to reflect the new requirements.

Counseling

AB 347, along with SB 405 (Ch. 723), made several changes to the supplemental school counseling program. Education Code 52378 was amended to require counselors to provide information to students about the availability of the intensive instruction and services after grade 12 to students who have not yet passed the exit exam and also about eligibility for admission to the University of Califor-

nia and California State University. This information also must be included in the list of coursework and experience provided to students in grades 7, 10, and 12 to assist them in their current grade level and to successfully transition to postsecondary education or employment. See BP/AR 6164.2 - Guidance/Counseling Services.

Williams Uniform Complaint Procedures

AB 347 amended Education Code 35186 to authorize the use of the Williams Uniform Complaint Procedures for complaints regarding deficiencies related to the provision of intensive instruction and services to students who have not passed the exit exam by the end of grade 12. The Williams classroom notice for high schools must also include information about the right to receive this intensive instruction. As a result of this amendment, the California Department of Education has revised its sample Williams complaint materials and will revise its Categorical Program Monitoring instruments. CSBA is working with CDE and has revised BP/AR/E 1312.4 - Williams Uniform Complaint Procedures.

More exit exam: students with disabilities

Students with disabilities are required to pass the exit exam, with appropriate modifications or accommodations, in order to receive a diploma. However, as a result of litigation, legislation was enacted to exempt students with disabilities in the classes of 2006 and 2007 from the requirement to pass the exam. This year, the governor vetoed SB 123 which would have extended the exemption to students in the class of 2008.

Settlement negotiations are ongoing, but, as of December 2007, students with disabilities in the class of 2008 and beyond must pass the exam in order to receive a diploma, unless they receive a waiver. The waiver process, outlined in AR 6162.52 - High School Exit Examination, authorizes boards to grant a waiver to a student with disabilities who took the exam with one or more modifications, received a passing score, and satisfied other conditions as specified in Education Code 60851.

Because settlement negotiations are continuing regarding the exemption issue, AR 6162.52 was not revised in this packet. A revised administrative regulation will be reissued should a settlement be reached with new requirements for the class of 2008 and beyond.

Standardized testing and reporting program

Shortly after state law sunset and thereby eliminated the requirement that students in grade 2 be tested through the Standardized Testing and Reporting program, SB 80 (Ch. 174) reinstated the requirement. AR 6162.51 - Standardized Testing and Reporting Program has been revised accordingly to include students in grade 2.

In addition, the CDE is developing and has begun implementing as part of the STAR program (starting with students in grades 3-5 in 2007-08) an alternative assessment for students with disabilities. The California Modified Assessment is in addition to, and does not replace, the California Alternate Performance Assessment. The CMA is based on modified achievement standards for students who are not severely cognitively disabled and whose individualized education program team determines that testing with the CMA is appropriate. The state has developed this test to take advantage of recent "flexibility" in No Child Left Behind requirements that allows two percent of students to be tested with a modified assessment.

Student wellness

A number of CSBA sample board policies and administrative regulations related to student wellness have been updated to reflect new law and/or CSBA's continuing work to share "best practices" throughout the state.

Nutritional standards

SB 80 (Ch. 174) adds new requirements, beginning in the 2007-08 fiscal year, for foods provided as part of the free and reduced-price meal program. Pursuant to Education Code 49430.7, schools cannot sell or serve food items that have been deep fried, par fried, flash fried or containing 0.5 grams or more of artificial trans fat per serving. By June 30, 2008, districts must provide the CDE with a one-time certification of compliance with these requirements.

For meals and food items provided outside the National School Lunch and Breakfast Program (whether through the district's food services program, vending machines, fundraisers or other outside sales), state standards for foods and beverages which were established in 2005 (SB 12 and SB 965) became effective on July 1, 2007. Those standards set limits on the total number of calories in food items as well as the percentage of calories from fat, saturated fat and sugar.

An additional nutritional standard for meals and food items provided outside the National School Lunch or Breakfast Program will take effect beginning July 1, 2009. Under Education Code 49431.7, added by SB 490 (Ch. 648), such foods cannot contain artificial trans fat or have been prepared using trans fat.

To reflect the new standards, CSBA has revised BP/AR 3550 - Food Service/Child Nutrition Program, BP/AR 3553 - Free and Reduced Price Meals, and BP/AR 3554 - Other Food Sales. For further information, see CSBA's October 2007 policy brief on *Nutrition Standards for Schools: Implications for Student Wellness*, provided with this packet and also available on CSBA's Web site at www.csba.org/Services/Services/PolicyServices.aspx.

Physical education

Effective July 1, 2007, Education Code 51241 added a new requirement stating that, before a district could grant a two-year exemption from physical education to a student

in grades 10-12, the student must have passed the state's ninth-grade physical fitness test (the FITNESSGRAM®) administered each spring. At that time, the law gave districts discretion to define what it meant to "pass" the test for this purpose.

However, SB 601 (Ch. 720) amended Education Code 51241 to specify that, in order to be eligible for the two-year exemption, students need to "satisfactorily" meet any five of the six standards of the state's physical fitness test (i.e., performing in the "healthy fitness zone," as defined by the test contractor, on five of the six areas).

SB 601 also significantly expanded the categorical program monitoring process with respect to physical education requirements.

CSBA updated its policy brief on *Physical Education and California Schools* in October 2007 as well as BP 6142.7 - Physical Education to include these new requirements.

Student wellness policy

Districts that participate in the National School Lunch Program, School Breakfast Program and/or other programs authorized by the federal Child Nutrition Act were required to develop, with the involvement of specified stakeholders, a districtwide student wellness policy by the beginning of the 2006-07 school year. Now that the deadline for developing the policy has passed, CSBA has revised BP 5030 - Student Wellness to expand material related to the board's role in monitoring the implementation of the policy as required by law. Sample indicators that the governance team might use to monitor and evaluate the effectiveness of the policy are based on CSBA's recent publication *Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide*. To order this publication, go to the CSBA store at www.csba.org.

Interdistrict attendance

Two of three interdistrict attendance provisions that became inoperative on June 30, 2007, have been reauthorized. Legislation has extended the "school district of choice" program and transfers based on parent/guardian employment, while the statute that encouraged districts to consider child care needs when evaluating interdistrict attendance permits has expired.

School district of choice

Under this program (Education Code 48300-48315), a district may elect to become a school district of choice and then accept transfers from students in other districts. The district in which the student actually resides can prohibit the student from transferring out only under limited circumstances, such as an impact on a desegregation plan. The district of residence may also limit the total number of students transferring out based on a percentage of ADA as specified in Education Code 48307.

While some districts accepting transfer students like the program because of its ability to increase ADA, obviously

there is a resulting negative impact on the ADA of the districts from which the students transfer out. Because of that dynamic, the reauthorization of this program became part of the budget battle in the legislature. SB 80 (Ch. 174), the budget trailer bill, contained a compromise in which the program was reauthorized until June 30, 2009, but only for districts that had previously elected to be school districts of choice prior to July 1, 2007. Thus, no new districts are allowed to participate in the program. BP/AR 5117 - Interdistrict Attendance has been revised accordingly.

Parent/guardian employment

Education Code 48204 authorizes a student to enroll in a district where one or both parents/guardians are employed (so-called "Allen Bill transfers"). Under this program, the student is deemed a resident of the district where the parent/guardian is employed and, once admitted, must be allowed to continue to attend district schools through grade 12. The district of actual residence may prohibit the transfer out only under limited circumstances, such as an impact on a desegregation plan. The district of residence may also limit transfers out under this program based on a percentage of ADA as specified in Education Code 48204.

SB 170 (Ch. 33) extended this option until June 30, 2012. SB 170 also amended Education Code 48204 to require that the parent/guardian be "physically employed" within district boundaries. The term "physically employed" is not defined in statute, but testimony during the legislative hearings revealed concerns about the use of post office boxes as proof of employment as opposed to an employer's actual address within district boundaries. See AR 5111 - District Residency and AR 5111.12 - Residency Based on Parent/Guardian Employment.

Child care needs

Education Code 46601.5 had encouraged districts to consider the student's child care needs when evaluating a request for interdistrict attendance permits. The statute also specified that, once a student was admitted based on child care needs, the receiving district could not require the student to reapply for such transfers unless the student stopped receiving child care within district boundaries.

However, Education Code 46601.5 sunset on June 30, 2007 and was not reauthorized. Thus, districts have discretion to consider child care needs as one of the factors in approving interdistrict attendance permits, as reflected in AR 5117 - Interdistrict Attendance.

B. More changes to come

Future editions of CSBA policy updates will continue to address policy implications of new legislation. In some cases, policy updates have been delayed pending the resolution of litigation or a potential statewide ballot referendum.

Nondiscrimination

In October, the governor signed SB 777 (Ch. 569) which amended several Education Code sections to revise the list of prohibited categories of discrimination and to define, among other categories, gender, sex and sexual orientation. This bill affects several CSBA sample policies that deal with nondiscrimination, including BP 0410 - Nondiscrimination in District Programs and Activities, BP/AR 1312.3 - Uniform Complaint Procedures and BP 5145.3 - Nondiscrimination/Harassment.

However, opponents of the legislation have filed a referendum with the Attorney General and Secretary of State's Office which would place the legislation on a statewide ballot and allow voters to approve or reject the statute. In order for the referendum to qualify for the ballot, a sufficient number of signatures must be gathered within 90 days of the bill's enactment.

Opponents have also filed a lawsuit against the legislation and have called for student walk-outs to protest the measure. As a result of these actions, it is unclear whether the legislation will take effect. CSBA will update the relevant sample policies if SB 777 ultimately becomes law.

Diabetes settlement

In August, the CDE settled a lawsuit concerning administration of insulin to students with diabetes who have been identified as "disabled" under Section 504 of the federal Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act. As part of the settlement, the CDE issued a legal advisory stating that, when all other options have been exhausted, districts may train unlicensed (i.e., without a medical license) personnel to administer insulin.

Organizations representing nurses believe that the state's Nursing Practice Act prohibits nurses from training unlicensed personnel to administer medication and have filed another lawsuit asking the court to order the CDE to rescind that portion of the legal advisory.

BP/AR 6164.6 - Identification and Education Under Section 504 has been updated to include information about the settlement but BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions is on hold pending the resolution of the latest legal action.

Further information is provided in a new policy brief by CSBA, *What Boards Need to Know: Rights of Students with Diabetes*, which is enclosed with this packet and will be available on CSBA's Web site at www.csba.org.

School Accountability Report Card

Beginning with the 2008-09 school year, AB 1061 (Ch. 530) establishes February 1, 2008 as the annual statewide publication deadline for school accountability report cards and requires districts to post the SARC on the district's Web site and to make hard copies available to parents/

guardians by that date. The bill also repeals numerous reporting elements from the SARC, such as participation in class size reduction, school instruction and leadership, and instructional minutes and minimum days in a school year. BP 0510 - School Accountability Report Card will be updated next year to reflect changes required for the 2008-09 SARC.

In the meantime, the CDE has finalized and released the SARC template and data files that districts will use in creating SARCs this year. These are available on the CDE's Web site at www.cde.ca.gov/ta/ac/sa.

Districts are reminded of the importance of ensuring that SARCs are completed in a timely manner and that they contain the data required by law. Public Advocates, a nonprofit civil rights law firm and advocacy group, examined SARC compliance statewide, filed a lawsuit against one district, and sent letters to 10 other districts demanding that they issue complete SARCs within 30 days or face legal action. These districts are complying, but Public Advocates has indicated it will continue to take action against other districts if they are not publishing their SARCs in accordance with law.

Special education: conformance with federal law

AB 1663 (Ch. 454) and AB 685 (Ch. 56) made numerous changes to Education Code provisions related to special education in order to conform state law with federal regulations implementing the IDEA which took effect in 2006. These amendments are technical in nature, primarily updating citations and terminology. CSBA's sample policies and administrative regulations on special education were previously updated to reflect the federal regulations and additional state law citations will be added accordingly in 2008.

Brown Act

Two legislative changes impact Brown Act provisions related to the availability of agenda items and the accessibility of meeting facilities.

SB 343 (Ch. 298) amended Government Code 54957.5 to specify that, if a document related to an agenda item for an open session of a regular board meeting is made available less than 72 hours before the meeting, then the district must make the document available for public inspection. The document must be made available at the same time it is distributed to a majority of the board and the board must designate a location for the inspection and list that address on all board agendas. Note that this requirement is only applicable to documents classified as public records. This law takes effect July 1, 2008, and will affect BB 9322 - Agenda/Meeting Materials.

AB 14 (Ch. 568) is a technical piece of legislation that deletes the specific lists of prohibited categories of discrimi-

nation from over 51 statutes and replaces them with a cross-reference to the Unruh Civil Rights Act so that the state's anti-discrimination statutes are consistent. AB 14 amended Government Code 54961 of the Brown Act to prohibit a public agency from holding a meeting in a facility that prohibits admittance to a person based on a characteristic listed in Government Code 11135. Government Code 11135 prohibits discrimination based on race, color, religion, ancestry, national origin, disability, medical condition, sex (including gender identity), marital status and sexual orientation. It is expected that BB 9320 - Meetings/Notices will be revised accordingly.

C. Hewlett report finds arts education lacking

A recent report commissioned by the William and Flora Hewlett Foundation found that, "although some California schools have excellent arts education programs in place . . . most do not. Instead, arts education in California is plagued by a lack of funding, underprepared elementary-level teachers, and inadequate facilities. It suffers from uneven implementation and is often crowded out by other curricular demands."

To examine arts education policies and practices in California schools, SRI International conducted a statewide school survey (1,123 respondents) and case studies of 31 schools in 2005-06. Major findings included:

- 90 percent of elementary schools, 96 percent of middle schools, and 72 percent of high schools fail to offer a standards-based course of study in all four disciplines—music, visual arts, theatre and dance— included in state goals for visual and performing arts.
- 61 percent of schools do not have even one full-time-equivalent arts specialist, although secondary schools are much more likely than elementary schools to employ specialists.
- Students attending high-poverty schools have less access to arts instruction than do students in more affluent communities.
- Inadequate state funding is a top barrier to the provision of arts education. Furthermore, reliance on outside funding sources, such as parent groups, creates inequities.

An Unfinished Canvas. Arts Education in California: Taking Stock of Policies and Practices is available at www.sri.com/policy/cep/edreform/ArtsEd.html.

Districts have an opportunity to obtain additional resources earmarked for arts and music education through block grants funded in the 2007 State Budget (SB 77, Ch. 171). These funds are intended to be used to supplement existing resources for arts and music education in grades K-12, specifically for (1) hiring additional staff; (2) purchasing new materials, books, supplies and equipment; and (3) implementing or in-

creasing staff development opportunities. Districts must provide a minimum specified amount to each district school (\$2,500 for schools with 20 or fewer students or \$4,000 for schools with more than 20 students) or must distribute funds to schools on an equal per-pupil basis, whichever is greater. Districts may reserve any portion of the block grant funds for districtwide expenses related to the program's purposes if the board first holds a public hearing and adopts a resolution.

BP 6142.6 - Visual and Performing Arts Education has been updated to reflect the block grant requirements.

D. What's new at CSBA

GAMUT Online Webinar

CSBA's Governance and Technology staff will demonstrate GAMUT Online via a one-hour Webinar on Wednesday, February 20 at 10:00 a.m. The Webinar will help district staff find policies using the keyword and search features and export policy documents for local editing. It also will demonstrate how the district's policy manual can be added to GAMUT Online. For more information, contact Laura Williams at 800-266-3382 or llwilliams@csba.org. To register, go to www.csba.org/events.

Expanded Locations for Masters in Governance

CSBA's Masters in Governance program, offered at convenient locations throughout the state, is designed to provide school board members and superintendents with the knowledge and skills to function as an effective governance team. In 2008, the program will be expanded to include Riverside and San Bernardino Counties.

Coursework is based on CSBA's nationally recognized Maximizing School Board Governance curriculum. Over the course of two years, enrollees participate in nine program modules, including Foundations of Effective Governance, Setting Direction, Human Resources, Policy and Judicial Review, Student Learning and Achievement, School Finance, Collective Bargaining, Community Relations and Advocacy and Governance Integration.

For further information or to register, go to www.csba.org/mig.aspx or call 1-800-266-3382 ext. 3287.