



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

Topics:

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B. Latest Technology Issues Facing Schools

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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 Requirements for P.E. Exemptions

In order to graduate from high school, all students are required by Education Code 51225.3 to complete two years of physical education courses unless they receive an exemption. Under Education Code 51241, districts may, but are not required to, grant either a two-year or permanent exemption from physical education classes under specified conditions. Temporary exemptions are also allowed for students who are ill or injured and for students who are enrolled for one-half time or less.

Effective July 1, 2007, Education Code 51241 requires students in grades 10-12 to "pass" the state's ninth-grade physical fitness test as a condition of the district granting a two-year exemption from physical education classes. If the district decides to administer the physical fitness test in any of grades 10-12, passage during those grades would also qualify the student for a two-year exemption. Note that this change in law does not affect temporary or permanent exemptions, only the two-year exemption.

A letter sent to districts in February by the California Department of Education clarifies that the new requirement would apply to students who begin ninth grade on or after July 1, 2007.

The challenge for districts is to determine what constitutes "passage" of the test for purposes of granting the two-year exemption. The State Board of Education has designated FITNESSGRAM® as the state's required physical fitness test. (Further information about the physical fitness test is available at www.cde.ca.gov/ta/tg/pf/.) However, the test provider has not designated a passing score for FITNESSGRAM®, nor does the law define a passing score. Thus, districts have discretion to determine how they will define "passage" of the test for this purpose.

CSBA's sample board policy and administrative regulation BP/AR 6142.7 - Physical Education have been updated to reflect the new law and to provide optional criteria defining "passage" of the state test. The sample options are based on student performance falling into the range of measurements designated by the test provider as being in the "healthy fitness zone" on either four or five of the

six fitness areas measured by FITNESSGRAM®. The six areas measured by the test include aerobic capacity, body composition, abdominal strength and endurance, trunk extensor strength and flexibility, upper body strength and endurance, and flexibility.

In addition, CSBA's sample policy language includes the option to consider multiple measures in addition to the state fitness test. The district may wish to consider the student's regular attendance and participation in physical education, the recommendation of the student's physical education teacher, or other criteria.

Districts should be aware that SB 601 (Torlakson), currently in the legislature, has been recently amended to address the issue of a passing score. As currently written, the bill would provide that students must meet five of the six standards in order to qualify for the exemption. CSBA is tracking this legislation and will notify districts of any future revisions needed in the district's policy if this bill should become law.

Although CSBA's sample policy provides a starting point for the discussion, districts are encouraged to give careful thought to the criteria they wish to use and to tailor the sample materials accordingly.

Review of the district's physical education policy also provides an opportunity for the board to discuss and clarify its role in monitoring the physical education program. Sample policy language has been added to BP 6142.7 addressing reports and data that the board might wish to receive in order to evaluate program effectiveness. Given the responsibility of the district under federal law to evaluate all of the district's efforts pertaining to student wellness (see BP 5030 - Student Wellness and CSBA's *Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide*), the board and superintendent should ensure that district policy reflects agreed-upon indicators for measuring the district's progress in meeting goals for physical activity.

For further information about development of physical education policy, see CSBA's October 2006 policy brief on *Physical Education and California Schools*, available at www.csba.org, and CSBA's August 2007 advisory on *New Requirement for Physical Education Exemption*.

B. Latest Technology Issues Facing Schools

To help districts keep up to date with new technologies and the emerging policy issues surrounding them, CSBA has updated a number of technology-related sample policies and administrative regulations, including BP/AR 0440 - District Technology Plan, BP 1113 - District and School Web Sites, BP/AR 4040 - Employee Use of Technology, and BP/AR 6163.4 - Student Use of Technology. In addition, CSBA revised BP 5131 - Conduct to expand

material related to cyberbullying, and deleted BP/AR 6162.7 - Use of Technology in Instruction which duplicated concepts addressed in BP/AR 0440.

Districts are encouraged to involve a broad range of staff and others in the review and revision of their technology-related policies. Education technology staff and instructional staff should be involved, but the district should also consider other end users of the district's technological resources, including students, administrators, library media teachers, classified staff, parents, community members and members of the business community.

A few of the key issues addressed in CSBA's updated sample policies are highlighted below.

Technology planning

Applications for any state or federal technology grant require the development of a comprehensive, three- to five-year education technology plan that meets the criteria established by the CDE. The required components are described in the CDE publication *Education Technology Planning: A Guide for School Districts* and are reflected in CSBA's sample BP/AR 0440 - District Technology Plan. They address curriculum; professional development; infrastructure, hardware, technical support, and software; funding and budget; appropriate and ethical use of technology (added by AB 307, Ch. 313, 2006); and monitoring and evaluation.

These criteria apply to state technology grants pursuant to Education Code 51871.5. According to the CDE, a district technology plan that addresses these required components would also meet the requirements of the technology plan required for the federal Enhancing Education Through Technology grant program to enhance teaching and learning in grades 4-8; the E-rate application for federal universal service discounts (except that a supplemental budget analysis form is needed); and/or participation in the Education Technology K-12 Voucher Program which resulted from the settlement agreement between California consumers and Microsoft Corporation. Districts that do not receive technology grants are not subject to these requirements but are nevertheless advised to consider the benefits of long-range technology planning and to develop a plan that meets their needs.

In the area of curriculum, one of the CDE's criteria is whether the plan addresses how the district will ensure appropriate access to technology for all students. Toward this end, districts may be guided by a June 2007 report of the International Society for Technology in Education entitled *A National Consideration of Digital Technology*, which includes strategies that policymakers and educators can use to close the "digital divide" (i.e., the disconnect that occurs between those with access to technology and those without access) and create "digital equity" across classrooms. See the Publications and Educator Resources sections of the ISTE Web site at www.iste.org for a variety of resources on this topic.

The focus of the technology plan should be on the use of technology to improve student achievement. However, districts may go beyond the minimum components required for grant applications and address other critical technology needs of the district, such as the use of technology to support governance, administration, support services, and both internal and external communications.

Cyberbullying

As today's students become more and more technologically savvy and use the Internet and other technologies for social purposes (sending e-mail, creating Web sites, posting in blogs, sending text messages and images via cell phones, contacting each other through instant messages, chatting in chat rooms and posting to social networking sites), it is not surprising that these technologies are sometimes used to bully other students or harass school staff.

Districts have the right and obligation to supervise and monitor students' use of the district's technological resources, and should be on the lookout for improper use of the system to "cyberbully." Students who misuse the system should be subject to loss of their computer privileges and other forms of discipline as appropriate. See BP 5131 - Conduct and BP/AR 6163.4 - Student Use of Technology.

But many times, students use their own equipment, on their own time, to bully other students or staff. Districts need to be aware of the legal issues regarding discipline of students for off-campus behavior.

CSBA has issued a new policy brief, *Cyberbullying: Policy Considerations for Boards*, which provides background information on the extent of the problem and its impact on students, discusses the legal issues, suggests issues that boards might wish to address in policy on this topic and provides additional resources that may help districts gain a greater understanding of cyberbullying. The policy brief is being sent to subscribers of CSBA's policy services and will be available on CSBA's Web site at www.csba.org.

Student access to social networking sites

Students' widespread use of the Internet poses other dangers as well. Posting of personal information on social networking sites such as Facebook, MySpace, Xanga and others puts students at risk with online predators.

Many districts have blocked students' access to such sites from district computers. Districts that allow access to such sites may wish to review a useful publication issued by MySpace entitled *The Official School Administrator's Guide to Understanding MySpace and Resolving Social Networking Issues* which is available at www.myspace.com. The guide addresses the site's privacy policy and Terms of Use Agreement, denial of access by underage users, how to remove a false or offensive profile, general steps to ensure safety and what to do about threats or cyberbullying.

Of course, as noted above, students often connect to these sites off campus and during non-school hours. But schools can still play a role by providing instruction to students, staff and parents regarding the safe use of social networking sites and other Internet services. Such instruction might include the dangers of posting personal information online, the fact that other users are not always who they say they are and may be online predators, and how to report inappropriate or offensive content or threats.

BP/AR 6163.4 - Student Use of Technology provides optional language regarding these issues.

C. Federal Rules for Storage of Electronic Records

Recent amendments to the Federal Rules of Civil Procedure governing discovery in the event of litigation highlight the importance of having procedures in place regarding the retention and destruction of electronic and paper documents that school districts routinely create, store, back up and purge.

The new rules apply in instances of pending or anticipated litigation in federal court and, for the first time, add requirements for electronically stored information. First, the rules require parties in litigation to identify and disclose potentially relevant ESI within the party's control, including those at other sites or stored for them by third parties. Thus, in the event of litigation, a district must be able to assemble an inventory of its various document and data storage systems in order to determine whether the documents must be disclosed. If they are subject to disclosure, most e-mails will need to be produced in their original form and include such information as file owner, creation date, routing details, sender, receiver and subject line.

Second, the rules require the development of a "litigation hold" strategy that halts the destruction of both paper and electronic information that could be potentially relevant to the litigation. The goal of a "litigation hold" is to halt the routine destruction of ESI and ensure that such information is stored in formats or places that are more readily accessible for discovery purposes.

As public agencies, school districts are subject to state laws regarding the classification and retention of records. The California Public Records Act (Government Code 6250-6270) regulates public access to district records. In addition, Title 5 regulations (5 CCR 16020-16027) require the district to classify all records as either permanent, optional, or disposable and, then, depending on the classification, to retain or destroy the records in accordance with the schedule in law. These requirements are reflected in BP/AR 1340 - Access to District Records and BP/AR 3580 - District Records.

Impact

While there has been a lot of confusion about the impact of the new federal rules, it is important to remember that the requirements apply only to parties involved in litigation in federal court. Despite the claim of some vendors, the new rules do not necessarily require substantial new investments in archiving and retrieval information systems. However, the rules do underscore the importance of regular and effective communication between management officials, information technology staff, and district legal counsel and the development of technology procedures and systems to ensure that when a litigation hold is in effect, all employees are notified and regular ESI deletion processes (e.g., automatic monthly erasure of back-up tapes) are suspended.

Next Steps

CSBA has formed a working group of school district attorneys to help analyze the impact of the new rules on districts and to determine whether amendments to state law or regulations may be necessary. The group also hopes to develop more detailed recommendations as well as revised sample policies and regulations.

Resources

Federal Rules of Civil Procedure: www.uscourts.gov/rules/EDiscovery_w_Notes.pdf.

D. Use of the Bible in Public Schools

Although the use of the Bible in public schools is a sensitive issue and must be approached with caution, there has recently been a resurgence of interest across the country in offering courses such as *The Bible in Literature*, *World Religions and The Bible in History*, according to Margaret Hill, chair of the California Three Rs Project: Rights, Responsibility and Respect. As evidence, she cites a feature article in *Education Week* (*The Bible Makes a Comeback*, May 16, 2007) and a Today Show piece highlighting a Texas high school classroom teaching a course on the Bible and its influence.

“While it is true that the Supreme Court barred devotional use of the Bible by public school officials in the 1960s, the Court at the same time said that study about religion where appropriate is an important part of a complete education,” says Hill. “The most important caution is that the use of the Bible in a public school setting must be academic rather than religious. Using the Bible in a devotional manner by educators in a public school is unconstitutional and would surely result in challenges and lawsuits.”

Thus, districts may offer courses that incorporate the

study of the Bible in a manner that does not promote a particular faith. Districts in California that plan to implement such courses have a number of resources available to assist them and their communities in working through the issues of appropriate use of the Bible.

The California Three Rs Project was established to find common ground on issues related to religious liberty and the First Amendment in public schools. It is sponsored by the California County Superintendents Educational Services Association and the First Amendment Center at Vanderbilt University and is supported by CSBA and numerous other organizations. For further information, see http://score.rims.k12.ca.us/score_lessons/3rs.

The First Amendment Center (www.firstamendmentcenter.org) has produced a number of resources pertaining to religious liberty and religion in the public schools, such as *A Teacher's Guide to Religion in the Public Schools*.

Together with the Bible Literacy Project, it also produced *The Bible and Public Schools: A First Amendment Guide*, a publication designed to help educators think through questions related to appropriate instructional resources, teacher qualifications, and pedagogical approaches. The publication is available at www.freedomforum.org.

E. Annual Review of Policies

As districts plan for the upcoming school year, it would be useful to schedule the annual review of at least two district policies as required by law. Districts are reminded that Education Code 35160.5 requires annual review of:

- **BP/AR 5116.1** - Intradistrict Open Enrollment (not needed by districts with only one school, or one site for each grade level, in which case intradistrict transfers cannot occur)
- **BP/AR 6145** - Extracurricular and Cocurricular Activities, with respect to participation of students in grades 7-12 in extracurricular/cocurricular activities

If the review indicates that no revisions are necessary, it is recommended that the board minutes nevertheless indicate that the review was conducted.

Each district may have other policies that it has decided should be annually monitored or reviewed.

F. What's New at CSBA

GAMUT Online Workshops

CSBA is offering a series of two-hour workshops on "GAMUT Online: Roadmap to Policy Updates" which will explain the benefits of using this online resource to access the policy updates issued by CSBA three times each year. Discover where to find and how to use the policies, guidesheets, policy brief and Governance and Policy Services newsletter that come with each issue in order to meet the district's needs. Also learn the benefits of having the district's policy manual included online.

Workshops will be offered at the following dates and locations:

- **San Joaquin County Office of Education:**
Thursday, August 23, 10:00 a.m. - 12:00 p.m.
- **Tehama County Office of Education:**
Tuesday, September 11, 1:30-3:30 p.m.
- **Contra Costa County Office of Education:**
Thursday, September 27, 1:30-3:30 p.m.

There is no cost for the event. To register, go to the "Events Calendar" at www.csba.org.

Playground Safety Program

New requirements for playground safety resulting from the passage of AB 1144 (Ch. 470, 2006) are reflected in CSBA's sample administrative regulation AR 5142 - Safety. Among the new requirements are changes in playground standards to conform to the standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by U.S. Consumer Product Safety Commission. These standards will affect both new and existing playgrounds. In addition, the law redefines the area that is considered to be a "playground" and requires an initial inspection of playgrounds by a certified playground safety inspector.

For districts that want assistance ensuring compliance with the new requirements, CSBA is expanding its California Playground Surfacing Program to include the California Playground Safety Compliance Program. The program is offered in partnership with the National Safe Surfacing Initiative.

The new service provides assistance to districts in developing a safety management plan in order to reduce injuries, prevent damage or destruction of equipment and show good intent to the public. An NSSI/CSBA certified

playground safety inspector will audit and inspect district playgrounds to identify conditions of noncompliance and develop a plan to remove playground equipment deemed dangerous due to noncompliance with current CPSC and ASTM standards. Districts may choose a full-scale audit, an audit of new playground equipment added to a previously audited play area, a post-repair audit, a re-inspection of playgrounds with regard to the new standards and/or an annual inspection to maintain an ongoing standard of care.

In addition, the program assists districts in identifying staff responsible for various safety functions and coordinating safety efforts; providing documentation and records for equipment inventory, surfacing, amenities, and injury reports; and establishing a plan for routine and preventative maintenance.

For further information, see www.csba.org.

Student Wellness Conference

Don't forget to sign up for the 2007 School Wellness Conference to be held October 1-2 in Anaheim. This two-day conference is hosted by CSBA with its partners, the California Department of Education and the California Department of Health Services.

This statewide effort to improve the learning environment and overall healthy eating and physical activity of public school children in our state will highlight:

- best practices and resources,
- statewide success stories and model programs,
- healthy nutrition environments and quality physical education programs,
- sample district policies that promote health on school campuses, and
- strategies to help schools succeed in implementing and evaluating their local school wellness policies.

School board members, superintendents, food service directors, school nurses, teachers, administrators, parents, students and others involved in the implementation of the district's wellness policies are encouraged to attend.

Full conference and hotel details are posted at www.csba.org/events/swc. Conference housing is currently available and will close on September 8. The \$150 registration fee is valid through September 17 and covers materials, refreshments and lunch on both days. On-site registration opens at 7:30 a.m. on October 1.