

CSBA's Policy Services 2009 Policies in Review



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CSBA's Policy Services

2009 Policies in Review



CSBA offers a wide array of products and services to assist districts and governance teams with their policy needs.

In March, July and November, CSBA issues Policy Updates containing new and revised sample board policies, administrative regulations and exhibits. Also included in these update packets is CSBA's *Policy News* (formerly *Governance and Policy Services News*), policy briefs and fact sheets on important and emerging issues.

In 2009, the Governor signed 709 bills, of which 67 affected CSBA's sample materials. *2009 Policies in Review* provides an overview of the major policy issues addressed throughout the year. For a complete list of all publications and continuing education opportunities provided by the Policy Services department, please see Appendices A and B. See Appendix C for the specific changes made to the sample policies and regulations. For a complete description of the various policy services offered by CSBA, go to Appendix D.

For further information, call CSBA's Policy Services Department at (800) 266-3382 or e-mail policy@csba.org.

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Accountability

Program Improvement schools

(March 2009)

Whenever a school has been identified for Program Improvement (PI) under the No Child Left Behind Act (NCLB), federal law requires the district to allow all students in that school to transfer to another district school or charter school that has not been identified for PI. In the second year of PI and beyond, the district must arrange for supplemental educational services for eligible students in that school. As indicated in the revised BP/AR 0520.2 - Title I Program Improvement Schools, new federal regulations clarify timelines for the notice and implementation of the transfer option, require additional information to be included in parent notifications regarding supplemental educational services, and require specified information about transfers and supplemental educational services to be posted on the district's Web site.

In addition, the new regulations amend provisions that require districts to spend 20 percent of their Title I funds to pay for costs related to supplemental educational services and transportation for transfers. Federal regulations now allow related outreach and assistance to parents to be counted in the district's 20 percent set-aside obligation. Also, if a district does not meet its 20 percent obligation in a given school year, it must spend the unexpended amount on those specified purposes in the subsequent school year, unless it (1) partners with outside groups to help inform eligible students and their families of the opportunities to transfer or receive supplemental educational services, and (2) provides eligible students a “genuine opportunity” to transfer or to obtain supplemental educational services, by providing timely notifications, distributing sign-up forms for supplemental educational services, establishing at least two enrollment windows and making school facilities available to eligible providers.

Assessment

High school exit examination: Exemption for students with disabilities

(November 2009)

With the passage of ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), students with disabilities are again exempt, beginning with the 2009–10 school year, from the requirement to pass the high school exit exam as a condition of graduation (although they must still take the exam in grade 10 as part of the census administration for compliance with NCLB).

Previously, students with disabilities in the classes of 2006 and 2007 were granted an exemption from the graduation requirement, but the exemption expired for the classes of 2008 and 2009. This latest exemption lasts until the State Board of Education (SBE) either implements an alternative means for students with disabilities to demonstrate achievement in the standards measured by the exam or determines that an alternative to the exam is not feasible.

CSBA sample AR 6162.5 - High School Exit Examination was revised to reflect the exemption.

Attendance options

“School district of choice” program

(November 2009)

After much controversy, Governor Schwarzenegger signed SB 680 (Ch. 198, Statutes of 2009) which reauthorizes the “school district of choice” program (Education Code 48300-48316) until July 1, 2016. Under this program, districts may elect to become a school district of choice and then accept transfers from other districts, with the number of transfers accepted to be determined by the board. Unlike the interdistrict attendance permit option (Education Code 46600-46611), school districts of choice are allowed to admit students from other districts without first seeking permission from the student’s district of residence.

While some districts like the program because of its ability to increase ADA, other districts receive a negative impact on ADA when students transfer out. Because of this conflict, the program had become part of the budget battle in 2007 and was reauthorized only until June 30, 2009, and only for districts that had previously elected to be a school district of choice prior to July 1, 2007. Along with extending the program, SB 680 deleted the requirement that limited participation to those districts that had elected to become

a school district of choice prior to July 1, 2007. BP/AR 5117 - Interdistrict Attendance was revised to reflect the new program requirements.

In addition, SB 680 requires a school district of choice, at its expense, to ensure that its annual audit includes a review of the district’s compliance with program requirements regarding (1) implementation of a random, unbiased selection process to determine student transfers when the number of applications exceeds the number of transfers the board has determined it can accept, and (2) communications to parents that are factually accurate and do not target individual parents or neighborhoods based on a student’s academic or athletic performance or other personal characteristic. AR 3460 - Financial Reports and Accountability was revised to reflect the requirement to notify the district’s auditor that the audit must include this review.

Because the determination of student transfers is now part of the audit process, districts should be careful to clearly establish the number of transfers that will be accepted and to record the board’s action in the minutes of the board meeting. The number of transfers may change from year to year, so this determination may need to be done annually or on a schedule determined by the district and should take into consideration the schools, grade levels and programs that will be able to accept transfer students.

Regardless of whether or not a district is a school district of choice, as a “district of residence” it has the authority to limit transfers out of the district, within certain percentages of ADA specified in Education Code 48307. SB 680 added that the district of residence also may limit the number of students transferring out when the county superintendent of schools has determined that the district has a negative budget certification or that, because of the transfers, the district would not meet state standards and criteria for fiscal stability.

Child care/preschool programs

Consolidation of state child care programs

(March 2009)

The California State Preschool Program (CSPP), created through AB 2759 (Ch. 308, Statutes of 2008), became effective July 1, 2009 and consolidated funding for the state’s five major center-based child care and development programs, including state preschool part-day and full-day programs, pre-kindergarten and family literacy part-day and full-day programs, and general child care and development services for ages 3–4. CSBA revised BP/AR 5148 - Child Care and Development and renumbered and added a new regulation at BP/AR 5148.3 - Preschool/Early Childhood

Education to reflect this law and provide additional guidance to districts that serve as contractors for child development programs.

Under the CSPP, districts may provide part-day and/or full-day programs with approval from the California Department of Education (CDE). The programs must provide a core curriculum that is developmentally, culturally and linguistically appropriate for the children served, as well as meals and snacks for the children, referrals to health and social services for families, parent education and staff development. The law establishes requirements for the number of hours and days that the services shall be available, priorities for enrollment and criteria for subsidized services. As a condition of receiving state funding, when making enrollment decisions districts must refer to the “centralized eligibility list” established by the child care and development planning council in its county, which ranks families by eligibility factors for subsidized care.

Note that preschool programs may also receive funding through the state migrant child care and development program, state program for severely disabled children, federal Head Start program or Title I preschool program. None of these programs was consolidated into the CSPP and thus their funding and program requirements were not affected. In addition, agencies that provide general child care and development programs for children younger than age 3 or older than age 4 will continue to have a general child care and development contract for those services in addition to a CSPP contract.

Curriculum and instruction

Bilingual competency award

(March 2009)

To encourage the study of world languages, some districts have developed a district-level bilingual competency award that recognizes the achievement of high school graduates who attain proficiency in English and another language. Legislation to establish a state seal of biliteracy has twice failed (AB 1996, 2006, and AB 280, 2007), but provides a model that may be adapted by districts that wish to establish such an award. The award recognizes bilingual proficiency of native English-speaking students, and also recognizes English learners who have been able to maintain proficiency in their heritage language while attaining proficiency in English.

Californians Together, a statewide coalition that promotes the success of English learners and works to secure equal access to quality education for all children, encourages districts to adopt policy establishing such an award and setting criteria for eligibility for the award. To assist districts in this

process, CSBA revised BP/AR 5126 - Awards for Achievement to include related material.

“Students graduating from our public schools need multilingual skills and intercultural proficiencies to fully participate in the 21st Century global economy,” says Shelly Speigel-Coleman, executive director of Californians Together. “The study of two or more languages opens up other worlds and presents a multitude of possibilities for the new generation of young people. This recognition of their talents is a statement of accomplishment for future employers and for college admission.”

Districts such as Rowland Unified School District, Ventura Unified School District, Eastside Union High School District, Sweetwater Union High School District and Glendale Unified School District provide a certificate, medallion and/or special seal on students’ diplomas to recognize bilingual or multilingual proficiency. Common eligibility criteria include overall grade point average, successful completion of high school requirements in English, proficiency on California Standards Tests, and demonstration of foreign language proficiency through completion of a four-year course of study in the same foreign language, passage of the Advanced Placement foreign language course or exam, or passage of a district or foreign government’s language exam.

Californians Together has developed a publication with further guidance which is posted on its Web site at www.californianstogether.org. In addition to criteria for high school seniors, there are examples of awards for students developing biliteracy skills in lower grades.

History-social science instruction

(July 2009)

CSBA issued a new sample policy BP 6142.94 - History-Social Science Instruction to address this critical core curriculum area. The policy reflects the state’s history-social science content standards and curriculum framework.

Material addressing multicultural education, formerly in BP 6141.6 - Multicultural Education, was incorporated into BP 6142.94 as a component of the social science curriculum in accordance with the goals expressed in the state’s content standards.

In addition to addressing the content of the curriculum, the new policy addresses the adoption of standards-aligned instructional materials, the use of supplementary instructional materials, professional development and program evaluation.

Instructional materials adoption

(November 2009)

Previous law required local educational agencies to purchase new instructional materials within 24 months of adoption by the SBE, but this requirement was temporarily suspended through 2012–13 by ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009). Thus, districts are not required to purchase the textbooks adopted by the SBE in 2007 for mathematics or 2008 for reading-language arts by the start of the 2010–11 school year. This suspension applies to both grade K–8 and 9–12 instructional materials.

Furthermore, the SBE is prohibited from adopting any new instructional materials during the same time period. As a result, the adoption cycle will shift as SBE adoptions begin again after July 1, 2013.

Boards are still required to hold a public hearing on the “sufficiency” of materials and to determine, through a resolution, whether each district student has sufficient materials in mathematics, science (including science laboratory equipment in grades 9–12), history-social science, English language arts (including English language development), foreign language and health. However, between 2008–09 and 2012–13, the definition of “sufficiency” has been modified to include those standards-aligned textbooks or instructional materials that were adopted by the SBE for grades K–8 prior to July 1, 2008, or that were adopted by local boards by that date for grades 9–12.

In addition, in accordance with ABX4 2, until 2012–13 “sufficiency” also means that all students in the district who are enrolled in the same course have “identical” standards-aligned textbooks and instructional materials from the same adoption cycle, as reflected in the revised sample BP/AR/E 6161.1 - Selection and Evaluation of Instructional Materials. Districts are not limited to using only one material from one publisher. For example, fourth-grade students at different district schools could be using reading-language arts materials from different publishers as long as both sets of materials are from the 2002 adoption cycle, but one school cannot use fourth-grade materials from the 2002 adoption cycle and while another school uses fourth-grade materials from the 2008 adoption cycle. However, a district may use materials from the 2002 adoption cycle for grades K–3 and materials from the 2008 adoption cycle for grades 4–8 since those students are not in the same “course.”

This definition of “sufficiency” also applies to Williams inspections of schools ranked in deciles 1-3 of the Academic Performance Index by the county office of education (COE).

Response to Instruction and Intervention (RtI²)

(July 2009)

Response to Intervention (RtI), as cited in the federal Individuals with Disabilities Education Act, is a process of using a child’s response to scientific, research-based intervention as a component to determine if a child has a specific learning disability. In California, the CDE has expanded these principles into a general education approach, Response to Instruction and Intervention (RtI²), which is intended to reduce the disproportionate representation of certain groups of students identified as needing special education services. The approach combines high-quality instruction, early intervention, and prevention and behavioral strategies.

As provided in CSBA’s new sample policy BP 6120 - Response to Instruction and Intervention, the program is designed to provide intensive instruction and intervention supports to meet students’ individual learning needs.

The district’s program should be based on an examination of indicators of student achievement at each school and districtwide and include universal screening and continuous classroom monitoring, related staff development for teachers and strong parent involvement.

According to CDE correspondence, “RtI² integrates resources from general education, categorical programs and special education through a comprehensive system of core instruction and interventions to benefit every student. ... The RtI² model hopes to create in California’s schools and districts the conditions necessary for closing the achievement gap. RtI² focuses on the individual student and provides a vehicle to strengthen performance for struggling students before educational problems increase in intensity and special education seems the only viable option” (www.cde.ca.gov/nr/el/le/yr08ltr1114att.asp).

As part of the state’s Quality Assurance Process, the CDE will examine whether districts have a disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

State standards for world languages

(March 2009)

On January 7, 2009, the SBE adopted new K–12 voluntary content standards for world/foreign languages. The standards are not specific to any particular language(s) and are based on the Language Learning Continuum disseminated by the College Board. As stated in the January SBE agenda, the Language Learning Continuum “provides clear benchmarks for measuring students’ ability to perform in the target language in culturally appropriate ways. It presents a model of progressive stages in the process of acquiring a second language.” The content standards define

what students should know and be able to do at each stage of the Language Learning Continuum.

Thus, rather than being tied to specific grade levels, the standards are organized by four stages that a student progresses through in order to become proficient in a language other than English, ranging from understanding and producing signs, words and phrases to understanding and producing cohesive texts composed of multiple paragraphs. For each stage, the standards are separated into five categories of topics that, in practice, would be taught together: content, communication, cultures, structures and settings.

The state content standards are available in the SBE agenda at www.cde.ca.gov/be/ag/ag/yr09/agenda0109.asp (Item 7).

CSBA issued a new sample policy and administrative regulation, BP/AR 6142.2 - World/Foreign Language Instruction, which is consistent with the state content standards and also addresses program goals, legal requirements for courses in foreign language, instruction in elementary schools, instructional resources, professional development, two-way immersion programs and program evaluation.

[Note: The state's *Foreign Language Framework for California Public Schools*, last issued in 2003, was scheduled to be revised in 2009–10 to reflect the content standards, until ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009) suspended all framework revisions until the 2013–14 school year.]

Facilities

Green schools

(July, November 2009)

Recognizing that “green school” practices contribute to healthy school environments, improved student and staff performance, and conservation of natural resources, CSBA is working to increase awareness of the issue among governance teams and to identify actions that districts can take to promote green schools.

CSBA currently provides a number of sample policies and administrative regulations that address environmental health, safety and conservation, such as BP/AR 3511 - Energy and Water Management, BP/AR 3511.1 - Integrated Waste Management, BP/AR 3514 - Environmental Safety, BP/AR 3514.1 - Hazardous Substances, AR 3514.2 - Integrated Pest Management, BP 6142.5 - Environmental Education and BP/AR 7150 - Site Selection and Development. In July, CSBA issued a new sample policy BP 3510 - Green

School Operations which brings these issues together—along with new policy language on green cleaning, environmentally preferable purchasing and green building standards—to provide a comprehensive, integrated approach within the district and provide an opportunity for boards to publicly demonstrate their commitment to these principles.

In addition, CSBA issued a policy brief in November (*Green Schools: An Overview of Key Policy Issues*) which provides additional background information and policy considerations. The brief outlines actions that districts and COEs can take to use energy and other natural resources more efficiently, reduce use of toxic materials and improve indoor and outdoor air quality. It also provides background information on the academic, health, financial and environmental benefits of green schools. The brief is available at www.csba.org/pab.aspx. Board members and superintendents are encouraged to read this brief as they review CSBA's sample BP 3510 or other related policies.

Support for the project was provided by The California Endowment through a grant designed to improve indoor air quality and asthma management in California schools.

Fiscal operations

Categorical flexibility

(March, July, November 2009)

On February 20, Governor Schwarzenegger signed a package of bills revising the 2008–09 state budget and enacting the 2009–10 budget. As part of the budget package, SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) granted 40 categorical programs (so-called “Tier 3 categoricals”) significant flexibility by authorizing districts and COEs to transfer funds received for any of these programs to “any educational purpose.” On July 28, the Governor signed another package of 2009–10 budget bills, including ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009) which made further changes to the categorical flexibility.

A governing board that wishes to exercise this flexibility is required to first hold a public hearing on the matter and to discuss and approve or disapprove the proposed use of the funding. For each of the categorical budget items, the board is required to make explicit the purposes for which the funds will be used. CSBA issued BP 3110 - Transfer of Funds (7/09) which expresses the board's intent to exercise the categorical flexibility in accordance with law, including the requirement for a public hearing.

Upon approval of flexibility by the board, the law provides that the district/COE shall be “deemed in compliance with the program and funding requirements contained in statutory, regulatory and provisional language” for each

of these Tier 3 categorical programs for the 2008–09 through 2012–13 fiscal years. Therefore, during the period of categorical flexibility, districts/COEs may choose to suspend the requirements specified in law for any Tier 3 categorical program, even one from which it has not transferred funds. For example, a district that operates a grade 7–12 counseling program, a Tier 3 categorical, and accepts flexibility will no longer be subject to the priorities in law regarding students to be served or the items that the counselor must discuss with each student.

CSBA's sample board policies and administrative regulations related to these programs currently reflect legal requirements, but many of these requirements may not be applicable during this period of flexibility. CSBA has identified over 40 sample policies and regulations subject to this flexibility. A district's policies and regulations based on CSBA's samples are likely also affected.

To assist districts in addressing the policy implications of the categorical flexibility, CSBA revised BP 2210 - Administrative Discretion Regarding Board Policy (11/09) as an "umbrella policy" authorizing the temporary suspension of policies and regulations, or some provisions within the policies and regulations, based on the categorical program flexibility.

CSBA has also developed a cautionary notice that will be placed at the top of each affected sample policy and regulation to advise readers that certain provisions of the document may not be in effect during the period of flexibility. Depending on how the flexibility is being exercised locally, districts may need to either include a similar cautionary notice on each of their affected policies and regulations or revise the materials to reflect which provisions are being retained and which are being temporarily suspended.

"Although CSBA can identify the affected CSBA sample policies, it will be necessary for each district accepting the flexibility to determine which program requirements it wishes to suspend during the period of categorical flexibility and which requirements it deems essential to program integrity and the best interests of students," cautions Judy Cias, CSBA's director of Policy Update Service and assistant general counsel. "Districts may need to either revise each of their affected policies and regulations to reflect program changes, or somehow temporarily flag each of those affected policies and regulations so that anyone reading them will be aware that some or all of the provisions may not be applicable during the flexibility period."

For further information, see CSBA's March 2009 budget advisory, *Flexibility Provisions in the 2008 and 2009 State Budget: Policy Considerations for Governance Teams* (www.csba.org/LegislationAndLegal/Legislation/LegislativeNews/2009.aspx). Also see CSBA's November 2009 policy advisory, *Policy Implications of Categorical Program Flexibility*, for recommended district actions and a list of all the affected CSBA sample policies (www.csba.org/pab.aspx).

Certifications of fiscal stability

(November 2009)

AR 3460 - Financial Reports and Accountability reflects legal requirements for the governing board to approve interim fiscal reports and certify whether the district will be able to meet its fiscal obligations for the remainder of the fiscal year and for the subsequent two fiscal years. The certification must be classified as one of the following:

1. "Positive certification" indicating that the district will meet its financial obligations for the current fiscal year and two subsequent fiscal years
2. "Qualified certification" indicating that the district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years
3. "Negative certification" indicating that the district will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year

The interim report and certification are then submitted to the county superintendent of schools and, if the certification is qualified or negative, the county superintendent submits it to the state controller and superintendent of public instruction. In addition, the county superintendent has 75 days after the close of the reporting period to change the district's positive certification to a qualified or negative certification. If the district appeals the decision, the superintendent of public instruction will determine the certification to be given to the district.

For the 2009–10 fiscal year, ABX4 2 (Sec. 38, Ch. 2, Fourth Extraordinary Session, Statutes of 2009) amends the criteria by which a county superintendent or the superintendent of public instruction may assign a qualified or negative certification to a district. For this year, he/she cannot assign a qualified or negative certification based substantially on a projected loss in the 2011–12 fiscal year of funds provided through the federal Fiscal Stabilization Fund of the American Recovery and Reinvestment Act. Nevertheless, in order to ensure the fiscal integrity of the district, districts should consider this projected loss of funds when developing their budgets or reviewing financial reports.

General fund reserve

(November 2009)

Districts are required to maintain a general fund reserve for economic uncertainty, in an amount that equals or exceeds that specified in 5 CCR 15450. The amount is based on the district's average daily attendance and ranges from 1 to 5 percent of total district expenditures, with a minimum dollar amount specified for districts of 1,000 ADA or less. Maintenance of an adequate reserve is one of the criteria and standards for district budgets

reviewed by the county superintendent of schools to assess the district's fiscal stability.

However, the minimum threshold for the reserve has been lowered for the next two years. ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009) amended Education Code 33128.3 to reduce the required reserve to one-third of the amount for the 2009–10 fiscal year. In fiscal year 2010–11, the district is required to make progress toward restoring the full reserve, and by fiscal year 2011–12 must again comply with the reserve threshold specified in 5 CCR 15450.

Because the amount of the reserve varies across districts, CSBA's sample BP 3100 - Budget does not specify an amount but simply states that the reserve will be maintained in accordance with law. In November, the sample policy was revised to add a note explaining the new law and to amend the applicable legal cites. If a district has specified a reserve amount in its policy, it should consider whether to revise this language for the current period.

Reimbursements based on length of school year

(November 2009)

State law establishes 175 days of instruction per school year as the minimum requirement to receive full ADA reimbursement. Incentive funding is available for districts to increase to 180 days, although financial penalties will be imposed by the state if a district accepts the incentive funding and then offers fewer than 180 days.

However, under ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), districts are authorized to reduce the school year through 2012–13 by up to five days without incurring financial penalties. Because the Public Employment Relations Board has determined that school calendar issues related to the work of employees (e.g., beginning and ending dates, summer vacation, school holidays) are negotiable, any reduction in the number of working days pursuant to ABX4 2 must first be negotiated with employee organizations.

Districts should also be aware that this new authority may raise constitutional equity issues. In 1992, the California Supreme Court held that a district's closure of schools violated students' fundamental right to basic equality in public education. While this case concerned the closure of a district six weeks early because of a lack of funds, it is possible that, despite the legislative authority, similar equity issues could be raised if one school district offers 175 days of instruction and a neighboring district offers 180 days. Districts seeking to reduce days of instruction should proceed cautiously and consult with their legal counsel.

CSBA reissued BP 6111 - School Calendar to reflect the temporary authority to reduce the school year, but cautions districts that they should modify the policy to reflect local collective bargaining agreements and district practice.

Use of proceeds from the sale or lease of real property

(March, November 2009)

As described in BP 3280 - Sale or Lease of District-Owned Real Property, Education Code 17462 and 2 CCR 1700 establish requirements for the use of proceeds derived from the sale or lease of real property. Districts are generally required to use the proceeds for one-time expenditures related to capital outlay or for maintenance projects within a five-year period. However, with approval of the State Allocation Board, the proceeds may instead be deposited in the district's general fund when the district has no anticipated need for additional sites, building construction or major deferred maintenance, or may be used to reduce a district's unfunded liability for nonpension postemployment benefits (e.g., medical, dental, vision, hearing, life insurance, long-term care, long-term disability and other nonpension benefits for retired employees).

ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009) added another limited exception. Until January 2012, districts may use the proceeds from the sale of surplus real property, along with the proceeds from any personal property located on that property, for any one-time general fund purpose. Districts that choose to exercise this flexibility will be ineligible for hardship funding from the State Allocation Board for five years after the proceeds are deposited.

Prior to exercising this authority, Education Code 17463.7 requires the board to adopt a plan for expending the resources and to make specific certifications. Education Code 17463.7 contains additional requirements applicable to the sale of property purchased with proceeds from a local general obligation bond or revenue from developer fees.

Personnel

Ban on use of school mailboxes for political materials

(July 2009)

In a victory for school district and COE governing boards, the California Supreme Court has upheld a district's policy banning the use of school mailboxes to distribute political materials endorsing school board candidates.

CSBA's Education Legal Alliance filed an amicus brief in support of the district. According to Richard L. Hamilton, director of the Alliance, the ruling is helpful to school districts.

"The court's ruling clarifies the law prohibiting the use of district resources—in this case, mailboxes deemed district equipment—for political endorsement even if it is the union using district mailboxes under the guise of communicating with its members," Hamilton said.

The San Leandro Teachers Association regularly used district mailboxes to communicate with its members. However, in this case the union used the mailboxes to distribute a newsletter that endorsed a slate of school board candidates in an upcoming election. The district advised SLTA that Education Code 7054 prohibited use of the mailboxes for political purposes. The union filed an unfair labor practice charge and, pursuing a separate tactic, also sued. The case advanced on to the appellate court, which ruled in favor of the district, and the state Supreme Court agreed to review the case.

The California Supreme Court agreed with the district's and Alliance's position that allowing the union to use the mailboxes to endorse candidates unfairly benefits those candidates because no other candidates or organization has similar access to the boxes. The court held that the union's special access to an internal channel of district communication is the type of abuse that the Education Code was designed to guard against—the use of taxpayer dollars for political advantage. Furthermore, the court held that the district's ban was an authorized and reasonable regulation of a union's right to communicate with its members.

Hamilton said the court was careful to emphasize that its ruling was narrow and did not apply to endorsements of ballot measures or union literature that urges members to become involved in upcoming elections.

"This ruling confirms the status quo," Hamilton said. "Boards have long understood that the district could not use its own district equipment, including mailboxes, to urge the support or defeat of a candidate. If the ruling had gone the other way it could have created a real problem, since the union would have one-sided access and the district would have been unable to respond in kind."

Read a copy of the court's ruling at www.courtinfo.ca.gov/opinions/documents/S156961.pdf. Review CSBA's advisory, *Guidelines for Political Activity: Ballot Measures and Candidates*, at www.csba.org/LegislationAndLegal/Legal/~/_/media/Files/LegislationLegal/Legal/Guidelinespoliticalactivity2.ashx.

Prohibitions against the use of public funds for dissemination of political campaign materials are addressed in BP/AR 4119.25/4219.25/4319.25 - Political Activities of Employees, which did not require revision as a result of the court decision.

COBRA subsidy

(March, July 2009)

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, Section 3000), signed into law by President Obama on February 17, includes a temporary subsidy to cover 65 percent of the cost of health care continuation coverage for eligible individuals under the Consolidated Omnibus Budget Reconciliation Act (COBRA). State law, AB 23 (Ch. 3, Statutes of 2009), makes the subsidy applicable to eligible individuals participating in Cal-COBRA (for districts with 2–19 employees).

The subsidy is effective for health care continuation coverage beginning March 1, 2009. "Assistance eligible individuals" are those whose employment was involuntarily terminated (other than by reason of gross misconduct) between September 1, 2008, and December 31, 2009.

Assistance eligible individuals pay 35 percent of the premium they would otherwise be required to pay for continuation coverage, and the balance of the premium is paid by the district. Thus, if employees normally pay the full premium for continuation coverage, an assistance eligible individual would be required to pay 35 percent of the full premium. However, if the district normally contributes a portion of the premium, then the assistance eligible individual would pay 35 percent of the normal employee share.

The district will recover its 65 percent share from the federal government through a credit on its payroll tax return or, if the district participates in Cal-COBRA, through the district's insurance carrier.

The maximum period of subsidized COBRA coverage is nine months from March 1 or the date that the individual loses coverage under the group health plan, whichever is later, followed by unsubsidized coverage for up to nine more months, for a total of 18 months as under current law. The subsidy ceases to be available when the individual becomes eligible for coverage under another group health plan or Medicare, is no longer eligible for COBRA or stops paying his/her portion of the premium.

The law contains new notice and reporting requirements for districts. These requirements are reflected in BP/AR 4154/4254/4354 - Health and Welfare Benefits, revised in July 2009.

[Note: On December 19, 2009, President Obama signed the Department of Defense Appropriations Act of 2010, which extends the COBRA subsidy to apply to eligible individuals who lose their group health plan coverage due to an involuntary termination up to February 28, 2010. In addition, the new law allows assistance eligible individuals to participate in the subsidy program for a total of 15 months rather than nine months.]

Equitable distribution of qualified teachers

(March 2009)

NCLB (20 USC 6311) requires states to ensure that poor, minority and/or underperforming students are not taught by inexperienced, underqualified or out-of-field teachers at higher rates than are other students in the district. To address this requirement, California's state plan, as adopted by the SBE in 2006 and revised in 2008, establishes goals for ensuring that:

- All core academic subjects are staffed by "highly qualified teachers" (HQT) pursuant to NCLB.
- No teachers with a provisional internship permit (PIP), short-term staffing permit (STSP) or credential waiver are assigned to schools that have 40 percent or higher poverty or are ranked in deciles 1–3 on the statewide Academic Performance Index.
- Interns, experienced and effective teachers, and experienced and effective administrators are equitably distributed among all school sites.

"The requirement in NCLB for equitable distribution of teachers and principals is a wonderful opportunity for school boards and districts to make strides in reducing the achievement gap amongst their students," says Stephanie Farland, CSBA senior research and policy consultant. "We know from research that a child's teacher is the number one indicator in a student's achievement level. These new requirements will help boards focus on how teachers and principals are distributed in their district, what barriers are in place to prevent districts from putting the right teacher in the right classroom and what boards can do to foster the elimination of the achievement gap in their districts."

The types of reports and information that must be provided to the CDE by districts vary depending on whether the district has been categorized by the CDE as Level A (not fully compliant with HQT requirements but has met adequate yearly progress (AYP)), Level B (not fully compliant with HQT and has not met AYP for two consecutive years), or Level C (not fully compliant with HQT and has not met AYP for three consecutive years). Districts should have received a notice from the CDE in January 2009 regarding their status or may check with their own California Basic Educational Data System coordinator.

Level A districts are required to submit a teacher experience worksheet, available on the Web site of the Santa Clara County Office of Education's Personnel Management Assistance Team (www.scoec.org/depts/pmat), by April 15 for each school site that is not 100 percent compliant with HQT. Level B and C districts are required to submit additional worksheets for school comparisons and administrator experience, as well as an "equitable distribution plan" outlining strategies to improve recruitment, retention and effectiveness of teachers and administrators. Level C districts are also required to enter into an agreement with the CDE regarding the use of their Title II, Part A funds.

June 15, 2009, was the due date for both the equitable distribution plan and the Title II budget for Level B and C districts.

In assessing whether the district demonstrates equitable distribution of HQT and interns, the CDE may require districts to develop and submit board policy ensuring that no STSP or PIP holder is assigned to a high-poverty, low-achieving school and that interns are not placed in high-poverty, low-achieving schools in greater numbers than other schools. Thus, CSBA sample BP 4113 - Assignment was revised to reflect these requirements.

Lynda Nichols, CDE consultant, recognizes that implementing strategies for equitable distribution may require time to review and negotiate collective bargaining language related to teacher assignments. In a Webinar conducted by CSBA on March 7, Nichols said, "What we're really looking for here is a detailed, step-by-step plan—what will be [the district's] process for developing board language, or policy, and then what will be your steps for working with your bargaining unit, what's the time frame for doing that. ... We don't expect anybody to be able to do this overnight. We expect it to be a detailed plan, and one that does move as quickly as possible."

Military family leave

(March, November 2009)

Under the Family and Medical Leave Act (29 USC 2611-2612), an employee may take up to 26 weeks off to provide care to a family member who is a covered servicemember with a serious illness or injury. In addition, an employee may take up to 12 weeks off to attend to an "exigency" arising out of the fact that a spouse, child or parent of the employee is a member of the National Guard or Reserves and has been called, or received notice of a call, to active duty.

Effective January 16, 2009, new federal regulations address these military family leave entitlements (29 CFR 825.127). The new regulations define "qualified exigencies" as events in several broad categories, such as child care, military events, legal and financial matters, and spending time with the military member who is on leave. The new regulations also include several changes to other provisions of the FMLA, including the fitness-for-duty certification. Revisions to AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave reflect these regulations.

CSBA will again be reviewing and revising AR 4161.8/4261.8/4361.8 as necessary to reflect the Supporting Military Families Act of 2009, signed by President Barack Obama on October 28 as part of the National Defense Authorization Act for FY 2010 (H.R. 2647, Sec. 565). As amended, the law provides that, effective immediately:

- Employees may use military caregiver leave not only to care for a current servicemember who was seriously ill or injured on active duty, but one who has separated from military service within the past five years.
- Employees are also allowed to use military caregiver leave when the covered servicemember suffered from a pre-existing serious injury or illness that was aggravated by active duty status in the military.
- Exigency leave is available when the servicemember is called to active duty in a foreign country, replacing the requirement that the active duty be “in support of a contingency operation.”
- Exigency leave is available when the family member is in the regular Armed Forces, as well as the National Guard or military reserves.

Qualifications of special education staff

(November 2009)

Several actions have been taken this year to help districts meet the demand for special education teachers.

Effective July 3, 2009, 5 CCR 80048.7 (added by Register 2009, No. 27) established added authorizations to the special education (education specialist) credential in the areas of autism spectrum disorders, deaf-blind, emotional disturbance, orthopedically impaired, other health impaired and traumatic brain injury.

For a limited period of time and under specified conditions, districts continue to be allowed to assign a teacher to provide instruction to students with autism when the teacher’s credential authorizes instruction to students with mild and moderate disabilities (in addition to teachers whose credential authorizes instruction to students with moderate/severe disabilities). However, this authority will cease on July 3, 2011 in accordance with Education Code 44265.1, which specifies that it will become inoperative two years after the CTC adds an autism authorization to the education specialist credential. This is intended to give candidates time to meet the new requirements of the added authorization.

In addition, new Title 5 regulations (5 CCR 80027.1, added by Register 2009, No. 27) establish the special education limited assignment teaching permit, which allows a special education credential holder to serve outside his/her specialty area while completing the coursework for an added authorization in special education or an additional full specialty area in another special education area. The permit is valid for up to one year from the date of issuance but may be renewed twice, for a total of three years in the specialty area, if renewal requirements are met.

Finally, new law (AB 239) amended Education Code 44325 regarding the issuance of special education district internship credentials authorizing classroom instruction to students with disabilities. As amended, Education

Code 44325, no longer limits this authorization to instruction of students with mild and moderate disabilities.

AR 4112.23 - Special Education Staff was revised to reflect these changes.

Safety

Safe Routes to School program

(July 2009)

One way to encourage students to be more physically active, and thus healthier and more ready to learn, is to promote and facilitate walking and bicycling to school. In collaboration with local government agencies, community organizations, parents and others, districts can develop and implement strategies to make it easy, safe and enjoyable for students to walk and bicycle to and from school on a daily basis. Examples of these strategies appear in the CSBA sample BP/AR 5142.2 - Safe Routes to School Program and a related policy brief co-authored with California Project LEAN (Leaders Encouraging Activity and Nutrition) entitled *Safe Routes to School: Program and Policy Strategies for School Districts*. These strategies focus on the “five Es” recommended by the U.S. Department of Transportation’s Federal Highway Administration: education, encouragement, enforcement, engineering and evaluation.

The policy brief provides suggestions for how to get a program started, a case study highlighting a successful collaborative program, information about the role of the governing board in promoting physical activity programs and policies and a list of additional resources. The policy brief is posted on CSBA’s Web site at www.csba.org/wellness.aspx.

“Districts and communities that are interested in starting projects but are concerned about finances should investigate state and federal Safe Routes to School funding mechanisms,” advises Jessica St. John, CSBA’s physical education/physical activity consultant.

The state grants provide funding to cities and counties primarily for infrastructure projects (e.g., improvement or construction of sidewalks, crosswalks and bicycle lanes) in the vicinity of K–12 schools, with up to 10 percent allowable for noninfrastructure activities (e.g., promotional events, student education, safety enforcement). School districts can partner with cities and counties on state grant activities. The federal grants focus on grades K–8 and support both infrastructure and noninfrastructure projects. State, local and regional agencies experienced in meeting federal transportation requirements are eligible to apply. Other entities, including school districts/COEs, must partner with city, county or metropolitan planning organizations to serve as the responsible agency for their project.

“Districts should also be aware that there are many opportunities to support walking and bicycling to school that cost little or no money,” adds St. John. “Providing education on pedestrian and bicycle safety, promoting special events, such as Walk to School Day, and organizing ‘walking school buses’ are some relatively easy ways that districts can get started. Also, districts should remember that they don’t have to do this alone. It’s important to work with other agencies and volunteers in the community, especially when assessing current conditions along routes to school, establishing priorities for physical improvements and applying for grants.”

Special student populations

Children of military families

(November 2009)

The Interstate Compact on Educational Opportunity for Military Children, which seeks to alleviate barriers to educational success for children whose parents are in active duty in the military, was ratified by California through the passage of AB 343 (Ch. 237, Statutes of 2009). The compact recognizes that such parents may experience frequent moves or deployments and provides uniform means for states to deal with issues of student enrollment, placement, advancement, eligibility for extracurricular activities, and on-time graduation. Districts are required to be flexible in applying their local rules in order to meet the needs of these students.

CSBA issued a sample policy and administrative regulation reflecting the provisions of the compact (BP/AR 6173.2 - Education of Children of Military Families) and also revised BP 6145 - Extracurricular and Cocurricular Activities, BP 6145.2 - Athletic Competition and BP 6146.1 - High School Graduation Requirements as necessary.

Previous legislative efforts to ratify the compact had stalled due to concerns about the fiscal and programmatic impact of the compact and whether it was consistent with state education laws. A statewide task force was formed in 2008 to examine these concerns and make recommendations. The task force studied the unique challenges facing school-aged children of military families, whose number is estimated at over 61,000 in California (the third largest in the nation) and determined that the compact would not impact school district costs. The task force recommended adoption of the compact in California provided that several nonmaterial changes were made. The task force’s report, along with other resources to help address the needs of children of military families, is available through the CDE at www.cde.ca.gov/ls/pf/mc.

The Interstate Commission and its Rules Committee continue to meet, and it is possible that additional guidance and rules will be forthcoming.

Foster youth

(November 2009)

Like children of military families, foster youth often experience educational disruption and a lack of connectedness to school. Nearly half will not complete high school and less than three percent will go on to a four-year college, according to a report by the California Education Collaborative for Children in Foster Care (*Ready to Succeed: Changing Systems to Give California’s Foster Children the Opportunities They Deserve to be Ready for and Succeed in School*, 2008, available at www.cftl.org/publications.php).

To address the needs of foster youth, state law (Education Code 48850-48859) establishes the right of foster youth to continue attending their school of origin and requires districts to ensure that foster youth have access to the same academic resources, services and extracurricular activities that are available to all students.

Two bills signed by the Governor in 2009 further address the transition of foster youth who change residences. AB 167 (Ch. 224) exempts foster youth who transfer during grades 11–12, either between districts or between high schools within a district, from local graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school while he/she remains eligible for foster care. This exemption does not apply to course requirements set by state law or to the high school exit examination. Thus, such students will be subject only to course requirements required by state law, not to any additional graduation requirements established by the district.

The new law also requires districts to notify any student and the person making educational decisions for the student if any of the requirements waived will affect the student’s ability to gain admission to a postsecondary institution.

The second bill, AB 81 (Ch. 76), provides that foster youth who change residences will immediately be deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports.

These provisions are now reflected in BP/AR 6173.1 - Education for Foster Youth, BP 6146.1 - High School Graduation Requirements, BP 6145 - Extracurricular and Cocurricular Activities and BP 6145.2 - Athletic Competition.

Special education students

(March 2009)

New federal regulations authorize a parent to revoke consent at any time for the continued provision of special education services. Once this revoca-

tion is received, the district need not develop an individualized education program (IEP) or convene an IEP meeting. The district may not override the parent's decision by filing for a due process hearing or requesting mediation in order to continue to provide services. In addition, the new regulations require a district's procedural safeguards notice to include a full explanation of this right to revocation.

BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education and AR 6164.4 - Identification and Evaluation of Individuals for Special Education were revised to reflect these new requirements.

Student health

Administration of medication to Section 504 students

(March 2009)

In November 2008, a superior court judge ruled in favor of the California Nurses Association, California School Nurses Organization and others who brought a lawsuit challenging a settlement agreement entered into by the CDE concerning the rights of students with diabetes.

This ruling is the latest development in a series of lawsuits regarding administration of medication, such as insulin, by unlicensed personnel (i.e., those who do not have a medical license) in the school setting. In 2007, the CDE issued a legal advisory as part of a settlement of a class action lawsuit filed by the American Diabetes Association and the Disability Rights and Education and Defense Fund. The legal advisory stated that federal law authorized unlicensed school employees to be trained to administer insulin, when other authorized persons were unavailable, in accordance with a student's Section 504 plan. This "option 8" was challenged by the nurses associations as contrary to laws regarding the licensing of nurses and the judge agreed and invalidated that portion of the legal advisory that authorized the training of unlicensed personnel. The CDE has appealed this decision and will likely not update its legal advisory until after the court case is finalized.

CSBA updated AR 6164.6 - Identification and Education Under Section 504 to reflect this court ruling. When the CDE takes further action, CSBA will update its 2007 policy brief, *Rights of Students with Diabetes under IDEA and Section 504*. That advisory is still valid except for the part that discusses training of unlicensed personnel. CSBA's School Health Project is funded by The California Endowment.

Community collaboration on student wellness issues

(November 2009)

Although schools play a critical role in meeting the health needs of students, partnerships with cities, counties, businesses, community groups and nonprofit organizations can help supply expertise, funding, technical assistance, volunteer hours, supplies and curricular materials which can be costly for schools to obtain in these difficult economic times. A number of CSBA sample policies and administrative regulations pertaining to student wellness (e.g., BP 5030 - Student Wellness, BP/AR 5142.2 - Safe Routes to School Program, BP/AR 5141.52 - Suicide Prevention) include language designed to encourage collaboration.

In addition, CSBA and the Cities Counties Schools Partnership have created *Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement* to provide support for community engagement around student wellness.

The comprehensive guide discusses the impact that student health has on academic achievement; foundations of collaboration; steps in creating a successful collaboration; examples of successful collaborations around student wellness; case studies from across the state; and resources such as model joint use agreements, a checklist for starting a collaborative, sample board policies, board resolutions, district motions and sample guiding principles.

This project was made possible by a grant from the Vitamin Cases Consumer Settlement Fund. The guide may be downloaded for free at www.csba.org/wellness.aspx.

Indoor air quality

(March 2009)

In a continuing effort to raise awareness of the link between asthma and student learning and help districts improve indoor air quality (IAQ) in the schools, CSBA issued a fact sheet which describes the U.S. Environmental Protection Agency's *IAQ Tools for Schools (TfS) Action Kit* and presents case studies demonstrating how California school districts have successfully used this tool to create healthier school environments. Available free from the EPA, *Tools for Schools* provides checklists and facility walk-throughs to identify problems as well as guidelines for improvement of IAQ. See www.epa.gov/iaq/schools/actionkit.html.

CSBA's fact sheet, along with its earlier policy briefs on *Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments* (July 2008) and *Asthma Management in the Schools* (March 2008), are available on CSBA's Web site at www.csba.org/wellness.aspx. CSBA's IAQ and

asthma management project is funded with support from The California Endowment.

[Note: Also see “Green schools” in the Facilities section.]

Medicaid reimbursements

(July 2009)

A federal rule that would have virtually eliminated Medicaid reimbursements to districts for related administrative and transportation costs was rescinded (74 Fed. Reg. 124). CSBA and other advocates for public education fought the rule ever since it was issued in December 2007 by the Centers for Medicare and Medicaid Services and had secured a moratorium on its enforcement. That moratorium was set to expire July 1, 2009, but the controversy ended with the rescission of the rule announced by Department of Health and Human Services Secretary Kathleen Sebelius.

California schools have received more than \$100 million annually under the program in recent years. The secretary’s announcement noted that the rescission of the rule “reflects concern that the rule could limit the Medicaid administrative outreach activities of schools, and that the overall budgetary impact on schools could potentially impact their ability to offer Medicaid services to students.”

For further information about the Medi-Cal and Medicaid billing option and Medi-Cal Administrative Activities option, see www.csba.org/DistrictServices.aspx and click on the Practi-Cal link. Related policy language can be found in BP/AR 5141.6 - School Health Services.

Nutrition standards

(July 2009)

Nutrition standards pertaining to beverages in high schools and to foods containing artificial trans fat went into effect on July 1, 2009.

On that date, beverage standards specified in Education Code 49431.5 became applicable to all beverages sold in high schools from one-half hour before the start of the school day until one-half hour after the end of the school day. Previously, districts were required to ensure that 50 percent of beverages sold in high schools were of the types specified in the standards.

At the same time, Education Code 49431.7 requires that foods sold outside the National School Lunch and Breakfast Programs not contain or be prepared using more than 0.5 grams of artificial trans fat, including vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. This standard had previously been applicable only to meals reimbursed through the free and reduced-price meal program.

These requirements apply to foods and beverages provided through the district’s food services program and through vending machines. For further information, see CSBA sample AR 3550 - Food Service/Child Nutrition Program and AR 3554 - Other Food Sales.

As districts work to ensure that their food services programs meet the requirements of state law, they should also be aware that the federal Child Nutrition and WIC Reauthorization Act of 2004, which authorizes all the federal school meal programs, is up for review this year. The National School Lunch and Breakfast Programs and the Special Milk Program are permanently authorized and will continue without Congressional action, but are reviewed by Congress every five years.

“The 2004 reauthorization resulted in significant program changes, including changes in nutritional standards and a new requirement for the development of local school wellness policies,” says Martin Gonzalez, CSBA’s deputy executive director, Financial Programs and Policy Services. “This year CSBA will again monitor the discussions and proposed legislation to ensure that the nutritional needs of children are appropriately addressed.”

Pandemic flu/H1N1

(July 2009)

The H1N1 (swine flu) virus caused school closings throughout the United States this year. On July 9, at a national H1N1 Influenza Preparedness Summit, Department of Health and Human Services Secretary Kathleen Sebelius announced that school children would be targeted for H1N1 flu shots as soon as they were available.

In response to the announcement, Joan Edelstein, CSBA’s senior health consultant, said, “Public health officials are looking to schools as sites for mass vaccinations because private health providers are unlikely to have the capacity to serve as primary vaccinators of school-aged children as rapidly as necessary. CSBA encourages districts to take the time . . . to plan ahead and coordinate with their local health departments to prepare for pandemic flu, including working to set up flu shot clinics. District plans and policies should be reviewed and updated as necessary to ensure that districts are focused on prevention and education to limit the spread of influenza and are also prepared to respond in the event of an emergency.”

To assist districts in preparing for H1N1 flu, CSBA developed a fact sheet and hosted a Webinar to discuss the virus and actions to take in the event of school closure during flu outbreaks. The fact sheet, Webinar and other flu outbreak resources can be found at www.csba.org/wellness.aspx. CSBA’s School Health project is funded by The California Endowment.

Physical education/physical activity

(July, November 2009)

In partnership with California Project LEAN, CSBA developed several resources pertaining to physical education and physical activity. All of the following resources are available at www.csba.org/wellness.aspx.

- An online survey of California school board members was conducted to gain a better understanding of opportunities for and barriers to P.E. and physical activity in district policy and school-based programs. Based on the responses of 339 participants, a research brief was issued which outlines the survey's key findings and presents policy recommendations to improve opportunities for P.E. and physical activity before, during and after school (*Physical Activity and Physical Education in California Schools: A Survey of District/County Office of Education Perceptions and Practices*, August 2009).
The survey findings show that board members believe physical activity has a significant positive impact on overall student health and academic achievement. Respondents cite physical activity policies and practices as one of their top wellness priorities. However, they also identify a number of barriers to making P.E. and physical activity a priority in their districts at this time, including budget restrictions, limited time in the school day and competing priorities. In significant numbers of districts, especially lower income districts, P.E. and physical activity were negatively affected in the 2008–09 school year, such as by reducing staff, increasing class size or reducing instructional time in these programs. There is a need for training and resources that increase awareness of existing funding opportunities and cost-effective solutions to improving physical activity opportunities.
- A policy brief on *Maximizing Opportunities for Physical Activity Through Joint Use of Facilities* (September 2009, updated January 2010) discusses issues to consider when sharing facilities, program costs, liability, maintenance and/or operations with another governmental agency or community-based organization in order to expand access to safe and adequate places for recreation within the community. The brief presents examples of various types of joint arrangements, steps that districts can take to get started, strategies for addressing liability and funding, a case study of a successful program, board actions to support joint use, and additional resources.
- A fact sheet on *Moderate to Vigorous Physical Activity (MVPA) in Physical Education to Improve Health and Academic Outcomes* (November 2009) cites research indicating that students are not sufficiently active during P.E. and presents strategies, including specific board actions, for improving the quality of P.E. programs.
- A fact sheet on *Maximizing Opportunities for Physical Activity During the School Day* (November 2009) describes opportunities outside the P.E. program for districts to provide physical activity to benefit students'

physical and mental health, such as integrating physical activity into the classroom curriculum, classroom breaks, recess, lunch, school clubs, fundraising and competitions.

CSBA's physical education/physical activity program is funded by The California Endowment.

[Also see "Safe Routes to School program" in the Safety section.]

Tobacco use prevention

(July 2009)

The state's Tobacco-Use Prevention Education (TUPE) grant program (Health and Safety Code 104350-104495) provides support for local programs of tobacco-use prevention and intervention. Effective July 1, 2009, the portion of the program that provided an annual entitlement for grades 4–8 was eliminated, but districts and COEs may still apply for competitive grants for programs in grades 6–12. CSBA revised BP/AR 5131.62 - Tobacco to reflect this change in the program.

BP/AR 5131.62 also clarifies application criteria and priorities for funding established by the CDE. The CDE has determined that programs qualifying for state TUPE funds must align with the national Principles of Effectiveness (20 USC 7115) applicable to programs funded through the federal Safe and Drug Free Schools Act. Programs are also subject to guidelines contained in the CDE's *Getting Results* publication and in the program application.

Among other requirements, districts receiving TUPE funds must provide access to intervention and cessation services to high-risk groups in grades 7–12. The CDE defines "intervention programs" as programs used to provide further intensive education as an alternative to suspension for tobacco possession. "Cessation programs" should be offered as a voluntary activity for students currently using tobacco who desire assistance in quitting use. Districts may fulfill these requirements through either direct provision of services or referrals to services in the community.

The CDE has determined that these services should be directed toward current users. In addition, priority for funding is given to programs that target students most at risk for beginning to use tobacco. Student populations considered to be "most at risk" are to be identified by the applicant through a local needs assessment. Examples of high-risk populations may include students whose parents/guardians smoke, students transitioning from one educational setting to another (e.g., middle school to high school), students in continuation education or other nontraditional education settings, or perhaps specific ethnic/racial groups.

Miscellaneous

“Red Flags” rule for identity theft prevention

(July, November 2009)

Enforcement of the Federal Trade Commission’s “Red Flags” rule (16 CFR 681), which requires financial institutions and creditors to develop and implement a written identity theft prevention program, has been delayed until June 1, 2010. The rule has limited applicability to school districts and COEs.

Some vendors have been advising school districts that this new rule requires districts to purchase data security systems; however, that is not the case. While a data security system might be a worthwhile purchase, it is not required by this law.

There are two narrow circumstances under which districts may need to address the Red Flags rule.

First, if the district uses consumer reports, it needs to be prepared to respond to a notification from a consumer reporting agency regarding an address discrepancy. According to Lisa Soronen, senior staff attorney at the National School Boards Association (NSBA), districts are considered users of consumer reports if they request credit checks or background checks from a consumer reporting agency, such as part of the employee hiring process. If the district gives the consumer reporting agency an address that does not match the address the agency has on record, the district will then receive notification from the agency regarding the discrepancy. Under certain circumstances, the district may be required to reconcile the address discrepancy by reviewing its own records, verifying the address directly with the individual or through a third party, or using other reasonable means.

Districts that use consumer reports may need to develop and implement policies to handle the receipt of address discrepancy notices. However, an article by NSBA notes that districts have considerable leeway in developing reasonable policies (*Inquiry & Analysis*, September 2008).

Second, if the district is a “creditor” as defined in law, it needs to develop an identity theft prevention program. School districts generally do not sell products or services that are paid for by consumers over time or after the product or service has been used.

However, Soronen suggests a scenario under which a district might be considered a creditor for the purpose of this identity theft prevention program (*Inquiry & Analysis*, March 2009). If district policy does not require prepayment for the food services program (e.g., the district allows students to eat all month and then bills them at the end of the month), the district might be considered a creditor subject to the Red Flags rule. This requirement would not apply to a district that allows students to eat school meals

when they are not current on their payments, as long as the district’s policy and practice is to require prepayment (see AR 3551 - Food Service Operations/Cafeteria Fund).

Districts that might be considered creditors should carefully review the Red Flags rule and, as necessary, develop a program to (1) identify red flags or warning signs of identity theft that are specific to the district’s operations; (2) implement procedures to detect red flags in day-to-day operations; and (3) reasonably respond to any red flags detected. The program must be periodically evaluated and updated.

Soronen indicates that the district’s program need not be detailed or complicated and gives some examples:

“Relevant red flags in the school meals program might include things like the presentation of suspicious documents to open or use an account or change account information, a student claiming a bill does not belong to him or her or is for an incorrect amount, or a notice from the police or a student that his or her identity has been stolen.

“Steps taken to detect red flags in the school meals program might be as simple as verifying a student’s identity when setting up a school meals account and verifying a student’s identity when charging a school meal to a student’s account.

“Responding appropriately to red flags in the school meals program might include investigating a claim that a bill a student received does not belong to him or her or is inaccurate, not requiring a student to pay a bill that appears to be the result of identity theft, and opening a new account with a new account number for a student who has been the subject of identity theft.”

For further information, see www.ftc.gov/redflagsrule.

Retention and disclosure of electronic district records

(November 2009)

This summer the governor signed AB 5 (Ch. 5, Statutes of 2009), which creates the California Electronic Discovery Act and makes the procedural rules requiring the disclosure of documents to the opposing party in litigation actions applicable to electronically stored information (Code of Civil Procedure 2031.010). These state rules of procedure are similar to federal rules of civil procedure adopted in 2007 that apply to actions in federal courts and which also include provisions related to electronically stored information.

In general, the rules require parties in litigation to identify and disclose potentially relevant electronic information and, upon notification by district legal counsel of pending or anticipated litigation, halt the routine

destruction of paper or electronic records that could be potentially relevant (a “litigation hold”).

5 CCR 16020 defines a district “record” as all papers and documents prepared or retained as necessary or convenient to the discharge of official duty. If a document is a record, then the district must classify it as permanent, optional or disposable and, then, depending on the classification, to retain or destroy it in accordance with the schedule in 5 CCR 16020-16027. These requirements apply to all records, regardless of the format.

As a result, it is important that districts have an efficient and consistent system in place for discarding those documents, including e-mail, that are not considered a “record” and do not need to be retained. Such a system can not only help reduce storage costs but may also help prevent unnecessary disclosure in the event of litigation.

CSBA revised BP 3580 - District Records to reflect AB 5 regarding electronic discovery. The revised policy directs the superintendent to create a document management system for the storage and destruction of records consistent with the Title 5 regulations for record classification and retention.

According to Judy Cias, CSBA’s associate general counsel and director of the Policy Update Service, each district’s document management system will be different. “The type of system needed will depend on the size of the district, number of sites, and the type of information technology system the district has,” Cias said. “CSBA’s sample policy directs the superintendent to collaborate with the district’s information technology staff and district legal counsel to determine the kind of retention system that makes sense for the district.”

“It is important to remember that the electronic discovery requirements apply only to parties involved in litigation in court,” Cias noted. “The 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 electronic deletion processes, such as the automatic monthly erasure of back-up tapes, are suspended.”

Appendix A

2009 Publications

Books/CDs

2008 Policies in Review (1/09)

Building Healthy Communities: A School Leader’s Guide to Collaboration and Community Engagement (2009)

Budget Advisories

Flexibility Provisions in the 2008 and 2009 State Budget: Policy Considerations for Governance Teams (3/09)

Fact Sheets

H1N1 Influenza (Swine Flu) (4/09)

Indoor Air Quality Resources: EPA’s Tools for Schools (3/09)

Maximizing Opportunities for Physical Activity During the School Day (11/09)

Moderate to Vigorous Physical Activity in Physical Education to Improve Health and Academic Outcomes (11/09)

Newsletters

Link to Learning: Healthy Students, Ready to Learn (Spring, Summer 2009)

Policy News (formerly Governance and Policy Services News) (3/09, 7/09, 11/09)

Policy Advisories and Briefs

Green Schools: An Overview of Key Policy Issues (11/09)

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities (9/09)

Policy Implications of Categorical Program Flexibility (12/09)

Safe Routes to School: Program and Policy Strategies (9/09)

Research Briefs

Physical Activity and Physical Education in California Schools: A Survey of District/County Office of Education Perceptions and Practices (9/09)

Appendix B

2009 Continuing Education

CSBA's Policy Services department offered a number of continuing education opportunities on major policy issues throughout 2009. See the Events calendar at www.csba.org for upcoming workshops, Webinars and other training events in 2010.

Go green! Go online!

This complimentary, two-hour workshop led by CSBA Governance Technology staff guides participants through a discussion of both GAMUT™ Online and *AgendaOnline*. The first presentation addresses the benefits and new features of GAMUT™ Online and explains how the district's policy manual may be included online. The second presentation demonstrates how to easily move from the current process of creating, editing and viewing board agendas and minutes to an online format with *AgendaOnline*.

Roadmap to Policy Updates

This complimentary session helps districts maximize the benefits they receive from CSBA's policy services. Participants explore and discuss best practices and procedures for keeping the district's policy manual current through GAMUT™ Online and Manual Maintenance services and discover pathways for accessing district policies online.

School Health Services Webinar

A one-hour Webinar on *Expanding Access to School Health Services* was conducted by CSBA in January 2009 with support from The California Endowment and is now available online at www.csba.org/wellness.aspx. Samantha Blackburn of the California School Health Centers Association joins CSBA staff in discussing the benefits, financing and structure of school health centers; board roles and responsibilities; opportunities for community partnerships and collaboration; and additional resources.

School Wellness Conference and preconference event

CSBA, in a collaborative partnership with the California Department of Education, California Department of Public Health, and numerous other sponsors and partners, co-hosted a two-day conference Oct. 6–7 in Anaheim to highlight critical components of school wellness. The 2009 School Wellness Conference, "Leveraging Wellness Policies to Create a

Healthy School Environment," built upon the inaugural 2007 event. The conference:

- assessed critical health issues and their link to student achievement;
- focused on district governance;
- brought together school and community leaders to share collaborative approaches; and
- addressed health disparities and support a cultural shift toward healthier students.

Keynote speakers included John Ratey, author of *SPARK: The Revolutionary New Science of Exercise and the Brain*, and Pedro Noguera, renowned speaker, author and education expert. Over 100 workshops and poster sessions addressed the following strands: community/family engagement, health services/education, healthy and safe school environment, mental health, nutrition education/services, physical education/activity, student wellness policies and staff wellness.

A special preconference event was offered free of charge on Oct. 5 to those who registered for the School Wellness Conference. "Finding Common Ground: Collaborating to Prevent Childhood Obesity" explored the foundations of collaboration among schools, cities and others. Specifically, strategies for collaboration around nutrition, physical activity, joint use of indoor and outdoor recreational facilities, as well as safe routes to school were addressed. The preconference event was based on a new collaboration guide, *Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*, developed by CSBA with the Cities Counties Schools Partnership and with funding from the Vitamin Cases Consumer Settlement Fund.

Trainings for executive assistants

Executive assistants play a key role in the district or county office of education. In this popular, full-day training, executive assistants can learn skills, tools and strategies to effectively meet the needs of the superintendent, board, students and the community.

Annual Education Conference

CSBA's 2009 Annual Education Conference included numerous sessions on policy issues (e.g., student wellness, the Brown Act), the policy development process and CSBA policy services.

Appendix C

Policies/Regulations/Bylaws/Exhibits Issued in 2009

0000 Series: Philosophy-Goals-Objectives & Comprehensive Plans

BP/AR/E 0520.2 Title I Program Improvement Schools (3/09)

Policy and regulation updated to reflect NEW FEDERAL REGULATIONS which give greater flexibility in the use of Title I funds required to be set aside for supplemental educational services and transportation for student transfers in schools identified for Program Improvement. Regulation also reflects NEW FEDERAL REGULATIONS re: timelines for notice and implementation of the transfer option, posting of specified information on the district's web site and new requirements for supplemental educational services.

2000 Series: Administration

BP 2110 Administrative Discretion Regarding Board Policy (11/09)

Retitled policy revised to reflect flexibility for Tier 3 categorical programs as added by NEW LAW (SBX3 4 and ABX4 2). Upon Board's exercise of flexibility, policy grants Superintendent the authority to suspend any statutory or regulatory program requirements for Tier 3 categorical programs reflected in any district policy, administrative regulation or bylaw. Policy also requires Superintendent to consult with district staff and report to the Board regarding the district's exercise of flexibility.

3000 Series: Business & Noninstructional Operations

BP 3100 Budget (11/09)

Revised policy clarifies the requirement that the budget formally adopted by the Board must be in the format prescribed by the CDE. Section on "Budget Criteria and Standards" updated to reflect NEW LAW (ABX4 2) which lowers the required general fund reserve for economic uncertainty until fiscal year 2011-12.

BP 3110 Transfer of Funds (7/09)

Policy reflects NEW LAWS (SBX3 4 and ABX4 2) which grant districts flexibility to transfer funds for Tier 3 categorical programs and require, as a condition of receipt of the funds, that the Board first hold a public hearing in order to hear testimony from the public, approve or disapprove the proposed use of the funding and make explicit the purposes for which the funds will be used. Policy also contains language directing the Board to discuss the district's goals for student learning during the hearing and requiring the Superintendent to regularly report to the Board about the district's exercise of flexibility.

BP/AR 3270 Sale and Disposal of Books, Equipment and Supplies (11/09)
MANDATED policy revises and expands sample criteria for determining when instructional materials are obsolete or unusable, including adding nonalignment with the district's academic standards or course of study. Updated regulation reorganizes section on "Personal Property." Regulation also revises section on "Instructional Materials" to reflect NEW LAW (AB 487) which deletes requirement that materials could be sold or donated only to organizations that would use them for educational purposes and adds requirement regarding the use of proceeds of the sale.

BP 3280 Sale or Lease of District-Owned Real Property (3/09, 11/09)

In 3/09, policy revised to include new language re: publication of the resolution and notice of the hearing for the proposed sale or lease of unused district real property and text re: State Allocation Board regulations which specify that the proceeds from the sale of property be used for one-time expenditures and not for ongoing expenditures. In 11/09, policy updated to reflect NEW LAW (ABX4 2) which authorizes districts, until January 1, 2012, to use the proceeds from the sale of surplus property for any one-time general fund purpose.

BP/AR/E(6) 3320 Claims and Actions Against the District (3/09)

Policy updated to more accurately describe authorization for district to adopt a procedure to govern the processing of claims not covered by the Government Claims Act. Regulation updated to reflect NEW LAW (SB 640) which exempts from the six-month filing limitation certain types of claims suffered as a result of childhood sexual abuse. Exhibit 6 revised to include a new note explaining when a district must provide a warning of "Notice of Action Taken on Claim" to a claimant.

AR 3440 Inventories (7/09)

Updated regulation clarifies state Categorical Program Monitoring criteria re: circumstances under which equipment purchased with state or federal categorical funds must be inventoried. Regulation also revised to more directly reflect law re: contents of the inventory, to add language on labeling and tracking of equipment and to expand section on "Physical Inventory" to address procedures for physical inventory and investigation in the event a discrepancy is found.

AR 3460 Financial Reports and Accountability (11/09)

Regulation updated to add note in "Interim Reports" section reflecting NEW LAW (ABX4 2) which prohibits the County Superintendent of Schools or the State Superintendent of Public Instruction from assigning the district a qualified or negative certification based substantially on a projected loss of federal American Recovery and Reinvestment Act funds in the 2011-12 fiscal year. Section on "Audit Report" revised to reflect NEW LAW (SB 680) which requires the audit for a district participating in the "school district of choice" program to include a review of compliance with specified program requirements.

BP 3510 Green School Operations (7/09)

New optional policy expresses the Board's intent to integrate green school practices into district operations to conserve natural resources and contribute to healthy school environments. Policy includes sample strategies (e.g., environmentally preferable purchasing, green cleaning, sustainable building practices).

BP/AR 3515.4 Recovery for Property Loss or Damage (7/09)

Policy contains updated note to reflect adjusted parent/guardian liability limits for misconduct of a minor child and for rewards paid by the district, as well as new Board goal language and revised options re: authority for the Superintendent to offer a reward. Revised regulation requires the Superintendent to conduct an investigation into acts of vandalism or graffiti and to consult with the district's insurance administrator in the recovery of damages.

BP/AR 3580 District Records (11/09)

Revised policy contains language reflecting NEW LAW (AB 5) which creates the California Electronic Discovery Act to make the procedural rules requiring disclosure of documents to the opposing party in litigation applicable to electronically stored information. Policy directs Superintendent to consult with staff to create a document management system which includes a process for the storage and destruction of electronic materials, including a response to "litigation hold" requests. Regulation updated to clarify the definition of "records" pursuant to Title 5 regulations that must be classified and retained by the district and to add legal requirements re: retention of electronic records or copies of records.

4000 Series: Personnel**BP/AR 4111.2/4211.2/4311.2 Legal Status Requirement (3/09)**

Policy and regulation revised to reflect NEW FEDERAL REGULATIONS which prohibit employers from accepting expired documents to verify employment authorization on Form I-9.

AR 4112.23 Special Education Staff (11/09)

MANDATED regulation updated to reflect NEW TITLE 5 REGULATIONS which (1) expand the added authorizations available for special education credential holders, including an autism authorization, and (2) establish the special education limited assignment teaching permit which allows a special education credential holder to serve outside his/her specialty area while completing the coursework for an added authorization in special education or an additional full specialty area in another special education area. Regulation also reflects NEW LAW (AB 239) which authorizes holders of special education district internship credentials to provide classroom instruction to students with disabilities, not limited to students with mild and moderate disabilities. Material on caseloads expanded and moved into new section.

AR 4112.4 Health Examinations (11/09)

Regulation revised to update "Medical Certification for Communicable Diseases for Certificated Employees" section to reflect NEW LAW (SB 171) which expands list of individuals authorized to issue the certification to include physician assistants, registered nurses and commissioned medical officers.

BP/AR 4113 Assignment (3/09)

Updated policy contains new section on "Equitable Distribution of Qualified Teachers" which reflects actions required by the state plan for NCLB to ensure that poor, minority and underperforming students are taught by qualified, experienced teachers at the same rate as other district students. Updated MANDATED regulation clarifies the circumstances under which the district must verify a teacher's subject matter knowledge in order to teach a departmentalized class outside his/her credential authorization.

AR 4117.11/4317.11 Preretirement Part-Time Employment (11/09)

MANDATED regulation adds optional language authorizing the Superintendent or designee to determine workload reductions on a case-by-case basis. Regulation also revised to reflect NEW LAW (SB 634) which clarifies certain conditions under which employees who reduce their workloads may maintain the retirement and health and welfare benefits they would have received if employed full time, including requirements pertaining to the number of years of prior full-time service and to absences that constitute a break in service.

AR 4117.14/4317.14 Postretirement Employment (11/09)

Regulation revised to reflect NEW LAW (AB 506) which, beginning July 1, 2010, prohibits any certificated employee retiring below age 60 from receiving compensation for creditable service for at least six months following his/her retirement. Regulation also reflects provisions of AB 506 which (1) specify a deadline for submission of proof of eligibility of an employee for exemption from postretirement compensation limitation, (2) extend the sunset date for exemptions from postretirement compensation limitation to June 30, 2012, and (3) prohibit the granting of an exemption from postretirement compensation limitation to a retired certificated individual who is hired in an emergency situation to fill an administrative vacancy, when the vacancy is caused by his/her own retirement.

BP 4119.21/4219.21/4319.21 Professional Standards (7/09)

Revised policy contains new section entitled "Staff Conduct with Students" which requires employees to maintain professional boundaries when interacting with students. Policy also prohibits inappropriate employee conduct, such as engaging in harassing behavior, engaging in inappropriate socialization or fraternization or establishing an inappropriate written, verbal or physical relationship with a student.

BP/AR 4154/4254/4354 Health and Welfare Benefits (7/09)

Policy and regulation updated to clarify the effect of state and federal laws on benefits for registered domestic partners and to reflect NEW FEDERAL LAW (American Recovery and Reinvestment Act) re: temporary subsidized premium

for COBRA and Cal-COBRA for “assistance eligible individuals.” Policy also clarifies the requirements for confidentiality of health records and expands the material on retired employees to include other individuals eligible under COBRA or Cal-COBRA.

AR 4161.8/4261.8/4361.8 Family and Medical Leave (3/09)

Regulation revised to reflect NEW FEDERAL REGULATIONS which contain new provisions re: military caregiver leave and leave for military families to attend to a “qualified exigency.” Regulation also reflects NEW FEDERAL REGULATIONS which make substantial amendments to the nonmilitary leave provisions of the Family and Medical Leave Act (FMLA), including conditions if the district requires an employee to submit a fitness-for-duty certification and additional notification requirements.

5000 Series: Students

BP 5021 Noncustodial Parents (7/09)

Revised policy contains new language clarifying that the parent who enrolls a child is presumed to be the parent with custody and that, unless the district receives a copy of a certified court order restricting access, both parents are presumed to have equal rights regarding their child, including picking the student up after school or otherwise removing the student from school, accessing student records, participating in school activities or visiting the school.

AR 5113.2 Work Permits (11/09)

Regulation updated to revise circumstances under which a work permit is not required as listed in the CDE’s 2009 *Work Permit Handbook*. Regulation also revised to reflect NEW LAW (AB 66) which authorizes a principal, or other designated school administrator designated by the principal, to issue work permits under specified conditions and authorizes the Superintendent to revoke a work permit issued by the principal if he/she becomes aware of any grounds upon which the student may be deemed ineligible for a work permit.

BP/AR 5117 Interdistrict Attendance (11/09)

Option 2 in policy and regulation revised to reflect NEW LAW (SB 680) which reauthorizes the “school district of choice” program, including provisions that (1) require that a random drawing be held in public at a Board meeting when more students apply to transfer than the Board has elected to permit, and (2) add to the information that the Superintendent must report to the Board re: student applications for admittance. Policy also contains new section for use by districts of residence that wish to limit the number of students transferring out to attend school in a school district of choice, including authorization added by SB 680 for districts with a negative budget certification resulting from student transfers.

BP/AR 5121 Grades/Evaluation of Student Achievement (7/09)

Updated policy includes new optional language re: “progress reports” for grades K–3 and reflects NEW U.S. DEPARTMENT OF EDUCATION

CORRESPONDENCE re: report cards and transcripts for students with disabilities. Policy also includes new language re: Superintendent’s authority to determine the methodology to be used in calculating grade point average. MANDATED regulation updated to add paragraph on high school transcripts; revise section on “Grades for Achievement” to add grading systems for grades K–3 and for extra grade weighting for specified classes; expand section on “Grades for Physical Education” to address grades for interscholastic athletic participation; and add new sections on “Grades for College Courses” and “Grade Point Average.”

BP/AR 5125 Student Records (3/09)

MANDATED policy and MANDATED regulation revised to reflect NEW FEDERAL REGULATIONS, including (1) revised definitions, (2) new requirements for disclosures in response to a court order under the USA Patriot Act, (3) additional security requirements to ensure that persons are only accessing those records in which they have a “legitimate educational interest” and (4) new procedures for the release of records that have been “de-identified.”

AR 5125.1 Release of Directory Information (3/09)

MANDATED regulation updated to reflect NEW FEDERAL REGULATIONS which clarify that a student’s social security number or student identification number may not be designated as directory information.

BP/AR 5126 Awards for Achievement (3/09)

Updated policy and regulation clarify the purpose and process of awarding the Golden State Seal Merit Diploma, and add new optional section on “Biliteracy Award” to recognize student proficiency in one or more languages in addition to English.

BP 5131.5 Vandalism and Graffiti (7/09)

Policy contains new language directing the Superintendent to collaborate with local law enforcement and the city or county to develop vandalism and graffiti prevention strategies, to investigate certain incidents of vandalism or graffiti pursuant to the district’s nondiscrimination policies, as appropriate, and to cover up graffiti as soon as possible.

BP/AR 5131.62 Tobacco (7/09)

Policy and regulation revised to reflect change in state’s Tobacco-Use Prevention Education program to a competitive grant program for grades 6–12, effective July 1, 2009. Policy also (1) adds exception to student discipline for the possession or use of prescription tobacco products, (2) aligns tobacco-use prevention instruction with state standards, (3) clarifies that districts may make cessation/intervention services available by providing referrals, (4) expands section on “Program Planning” to add establishment of advisory council and (5) adds new section on “Program Evaluation.” Regulation revises material on cessation services to reflect CDE GUIDANCE re: priority for services.

AR 5141.23 Asthma Management (3/09)

Updated regulation encourages parents/guardians to notify the district any time during the school year that their child is diagnosed with asthma, addresses applicability of the Family Educational Rights and Privacy Act to student health records, strengthens language on the supervision of students who are experiencing asthma symptoms and adds language on education and support services for students with asthma.

BP/AR 5141.52 Suicide Prevention (7/09)

Optional policy expanded to add language on (1) collaboration in planning, implementation and evaluation of suicide prevention and intervention strategies; (2) the role of positive school climate in suicide prevention; (3) alignment of related instruction with state standards; and (4) additional topics for parent information and staff development. Updated, optional regulation expands the section on “Instruction” to include the identification of additional resources to help troubled students. “Intervention” section expanded to include steps to be taken in the event of a suicide threat or attempt, including new language re: district actions in the aftermath of a suicide or attempted suicide.

BP/AR 5142.2 Safe Routes to School Program (7/09)

New optional policy and regulation include strategies for making it safer and easier for students to walk or bicycle to and from school in order to promote the benefits of active transport. Policy and regulation reflect goals and purposes of state and federal grant programs for Safe Routes to School.

BP/AR 5145.7 Sexual Harassment (3/09)

MANDATED policy revised to reflect NEW COURT DECISION which details the standards for determining district liability for sexual harassment under state law. Regulation contains a revised site-level complaint process/grievance procedure to reflect guidance from the U.S. Department of Education Office for Civil Rights.

BP 5145.9 Hate-Motivated Behavior (7/09)

Policy updated to explicitly prohibit discriminatory behavior or statements that degrade an individual on the basis of a protected category of discrimination and to provide for multi-agency collaborations to promote safe environments for youth. Policy also contains new section on “Grievance Procedures” and directs the Coordinator for Nondiscrimination/Principal to immediately investigate any complaint of hate-motivated behavior in accordance with the school-level grievance procedure specified in AR 5145.7 - Sexual Harassment.

BP/AR 5148 Child Care and Development (3/09)

MANDATED policy and MANDATED regulation updated to reflect NEW LAW (AB 2759) which consolidates several programs into a new California State Preschool Program. Revised regulation (1) includes note re: facilities inspection requirements per NEW LAW (AB 978); (2) expands section on “Program Components” to reflect NEW TITLE 5 REGULATIONS which change the schedule for completing the developmental profile; (3) adds language on the county’s centralized eligibility list, eligibility criteria and priorities for subsidized

services, and notification regarding approval or denial of services; (4) expands section on “Fees”; and (5) adds language on posting parental rights.

BP/AR 5148.3 Preschool/Early Childhood Education (3/09)

Policy updated to (1) reflect NEW LAW (AB 2759) which consolidates a number of programs into a new California State Preschool Program; (2) add note re: NEW LAW (SB 1629) which establishes a state advisory committee on preschool education; (3) encourage collaboration with county office of education; and (4) add language on staff development. New MANDATED regulation reflects requirements of the California State Preschool Program as added by NEW LAW (AB 2759).

6000 Series: Instruction

BP 6011 Academic Standards (7/09)

Policy updated to reflect all of the subject areas for which the SBE or Superintendent of Public Instruction have now adopted model content standards. Policy also adds language on articulation of the standards between grade levels, professional development related to the standards, communication of the standards to students and parents/guardians, and reviewing and updating of the standards as necessary.

BP 6111 School Calendar (11/09)

Policy updated to reflect NEW LAW (ABX4 2) which authorizes a district, upon agreement with employee organizations, to reduce the school year through 2012–13 by up to five days of instruction without incurring financial penalties.

AR 6116 Classroom Interruptions (7/09)

Regulation expanded to include additional strategies for reducing classroom interruptions, such as limiting the use of the intercom or public address system to announcements that apply to all students, scheduling deliveries to classrooms before or after school, addressing late arrival or early pick-up of students, limiting staff conduct of personal business during instructional time, and providing professional development on classroom management.

BP 6120 Response to Instruction and Intervention (7/09)

New optional policy reflects goal of the program to integrate instruction and resources in the general education program to improve achievement and to help close the achievement gap for all students. Policy reflects program strategies, based on NEW CDE CORRESPONDENCE, including creating a team to design the district’s research-based, standards-based program and providing for the universal screening and monitoring of student progress.

BP/AR 6142.2 World/Foreign Language Instruction (3/09)

New policy and regulation reflect NEW STATE CONTENT STANDARDS for world languages adopted by the SBE in January 2009. Policy also includes legal requirements for the provision of foreign language instruction and material on instructional resources, professional development and program evaluation. Regulation also includes material re: two-way immersion programs.

BP 6142.94 History-Social Science Instruction (7/09)

New policy reflects state standards and curriculum framework for history-social science instruction, a multicultural education component, related instructional materials, professional development and program evaluation.

BP 6145 Extracurricular and Cocurricular Activities (11/09)

Revised MANDATED policy reflects NEW LAW (AB 81) which provides that a child in foster care whose residency changes must be deemed to immediately meet all residency requirements for participation in extracurricular activities and interscholastic sports. Policy also reflects NEW LAW (AB 343) which requires the district to be flexible in applying its local rules to children of military families to facilitate their eligibility for extracurricular activities. New section added on “Student Conduct at Extracurricular/Cocurricular Events.”

BP 6145.2 Athletic Competition (11/09)

Policy revised to reflect NEW LAW (AB 81) which provides that a child in foster care must be deemed to immediately meet all residency requirements for participation in extracurricular activities and interscholastic sports when his/her residence changes due to a court order or decision of a child welfare worker. Policy also reflects NEW LAW (AB 343) which requires the district to be flexible in applying its local rules to children of military families to facilitate their eligibility for extracurricular activities. “Health and Safety” section revised to add optional language that athletic equipment shall be cleaned and inspected for safety before beginning of each school year.

BP 6146.1 High School Graduation Requirements (11/09)

Policy revised to reflect NEW LAWS (AB 167 and AB 343) which require the district to exempt or waive specific course requirements for foster youth or children of military families, respectively. Policy also contains general language re: exemption or waiver of the requirement to pass the high school exit examination for students with disabilities.

BP 6146.4 Differential Graduation and Competency Standards for Students with Disabilities (11/09)

Policy updated to reflect NEW LAW (ABX4 2) which exempts, beginning with 2009–10 school year, students with disabilities from the requirement to pass the exit examination as a condition of receiving a diploma. Policy also revised to specify that students with disabilities will be provided with a course of study that provides them with a free appropriate public education in accordance with their individualized education program.

BP/AR 6159.1 Procedural Safeguards and Complaints for Special Education (3/09)

MANDATED regulation updated to reflect NEW FEDERAL REGULATIONS which require the district to send the “prior written notice” upon receipt of a parent/guardian’s revocation of consent for the continued provision of special education services. Regulation also reflects NEW LAW (AB 2555) which requires the “procedural safeguards notice” to include information regarding the state special schools for students who are deaf or blind.

BP/AR/E 6161.1 Selection and Evaluation of Instructional Materials (11/09)

Policy updated to reflect NEW LAWS (SBX3 4 and ABX4 2) which require that, during the hearing on sufficiency of instructional materials, the Board must make a finding that students who are enrolled in the same course have “identical” standards-aligned instructional materials from the same adoption cycle. Material in policy re: Textbook and Instructional Materials Incentive Account deleted since this program is no longer funded. In regulation, section entitled “Instructional Materials Funding Realignment Program” revised to reflect NEW LAWS (SB 247 and AB 1398) which authorize the use of IMFRP funds to buy electronic instructional materials and the necessary electronic equipment. New Exhibit issued 9/09 provides a sample resolution on sufficiency of instructional materials.

AR 6162.52 High School Exit Examination (11/09)

Regulation updated to reflect NEW LAW (ABX4 2) which exempts, beginning with the 2009–10 school year, students with disabilities from the requirement to pass the exam as a condition of receiving a diploma. Regulation also revised to reflect NEW TITLE 5 REGULATIONS which (1) clarify that students in grade 12 who have not passed the exam may take the exam up to five times per school year, (2) authorize the district to provide students a testing variation where they are tested in a small group setting, and (3) revise the list of allowable test accommodations.

BP/AR 6163.4 Student Use of Technology (3/09)

MANDATED policy and MANDATED regulation updated to reflect NEW FEDERAL LAW (P.L. 110-385) which mandates that the district’s Internet safety policy include educating students about appropriate online behavior. Updated regulation also addresses (1) informing staff about their role in supervision of students’ use of technology, (2) prescreening of technological resources, (3) NEW LAW (AB 919) which makes it a crime to distribute personal identification information electronically with the intent to cause harassment or threaten a person’s safety, and (4) an expanded range of consequences for inappropriate use of technology.

AR 6164.4 Identification and Evaluation for Special Education (3/09)

Regulation revised to reflect NEW FEDERAL REGULATIONS which authorize a parent/guardian to revoke consent for the continued provision of special education services for his/her child at any time. Regulation also updated to reflect NEW LAW (AB 1663) which conformed state law to federal law by clarifying the factors that must be considered when making a determination of eligibility for special education and the areas in which a student must be assessed.

AR 6164.6 Identification and Education Under Section 504 (3/09)

Regulation revised to focus on procedures for identifying and evaluating students who are eligible to receive a free appropriate public education under Section 504.

BP/AR 6173.1 Education for Foster Youth (11/09)

Policy updated to reflect the multiple challenges facing foster youth, add language on strategies for building students' feelings of connectedness with the school, and add examination of suspension/expulsion rates to program evaluation. Regulation updated to (1) expand role of district liaison to include monitoring of students' progress, (2) require regular monitoring of district liaison's caseload, (3) add section on "Applicability of Graduation Requirements" reflecting NEW LAW (AB 167) which exempts foster youth who transfer in grades 11–12 from locally established graduation requirements, (4) add section on "Grades/Credits," and (5) add section on "Eligibility for Extracurricular Activities" reflecting NEW LAW (AB 81) which makes foster youth who change residences immediately eligible for interscholastic sports or other extracurricular activities.

BP/AR 6173.2 Education of Children of Military Families (11/09)

New policy and regulation reflect NEW LAW (AB 343) which ratifies the Interstate Compact on Educational Opportunity for Military Children, thereby requiring the district to be flexible in implementing its local rules to facilitate the enrollment, placement, attendance, eligibility for extracurricular activities, and on-time graduation of children of active duty military families when those children transfer into and out of the district.

BP/AR 6175 Migrant Education Program (7/09)

Policy and regulation updated to clarify the relationship between the district and regional migrant service center in verifying student eligibility and providing supplemental services to migrant students. Policy also expanded to include purposes of the program, coordination with other district programs and services, and program evaluation. Regulation adds information about NEW FEDERAL REGULATIONS addressing student eligibility, adds material formerly in policy re: transfer of student records, and adds material on Migrant Education Even Start family literacy services.

BP/AR 6181 Alternative Schools/Programs of Choice (7/09)

Policy and regulation updated to reflect CDE terminology distinguishing "alternative schools and programs of choice" (e.g., magnet school, school-within-a-school) from other types of alternative schools for at-risk youth. Policy also expanded to clarify the differences between these types of schools/programs and traditional schools/programs, add language on waiver requests and add language on program evaluation formerly addressed in regulation. Regulation includes material formerly in policy re: establishment of an advisory committee to evaluate proposals for new schools/programs and nondiscrimination in student enrollment.

Appendix D

CSBA Policy Services

CSBA offers a wide array of products and services to assist governance teams, school districts and COEs. Please see www.csba.org/Services/Services/PolicyServices.aspx or contact CSBA at (800) 266-3382 for subscription and ordering information.

The CSBA online boardroom

GAMUT™ Online

GAMUT™ Online provides easy access to CSBA sample policies, regulations and bylaws, pertinent laws and other resources. GAMUT™ Online is updated continuously. It includes all of CSBA's more than 800 samples, the entire Education Code, Title 5, other relevant state and federal code sections, California Department of Education advisories, a keyword index and the ability to easily download sample policies and regulations to word processing for editing. Free 30-day trial offer available.

Policy Online

Combining the benefits of Policy Manual Maintenance and GAMUT™ Online services, Policy Online provides Internet access to the district/COE policy manual. Rest assured that everyone is accessing the most current policies and don't worry about managing and monitoring paper policy manuals at all sites.

AgendaOnline

AgendaOnline is an electronic board meeting agenda service offered to districts and COEs. It is a Web-based application that allows development of and access to board meeting information including agendas, supporting documents and minutes, from any computer that has Internet access. Board members, staff and the public have access to information based on user type. Features include meeting and item templates, ability to attach multiple background documents, ability to link to documents already posted on the Web, "sticky note" option for board members and staff, recording of minutes including votes, printing of agenda and minutes, a district goal scorecard and more.

Bringing policy manuals into compliance

Policy Audit Program

Keeping a policy manual current can be an overwhelming task. Hundreds of new laws are passed by the state legislature and Congress every year and policies can quickly become out of date. Through CSBA's Policy Audit Program, a CSBA consultant will review over 150 of the district's policies, including mandated policies and others that contain important legal requirements, to determine if they reflect current law and the CSBA sample. Once CSBA has completed this analysis, the district will receive a report that identifies those policies that the district does not have or that do not reflect the latest revision by CSBA. This report will help the district identify priority areas for policy updating and give an indication as to the overall status of the district's manual. The district will also receive copies of the necessary CSBA sample policies.

Policy Development Workshop

Policy Development Workshops will bring together the expertise and experience of district administrators and/or board members with a CSBA consultant to produce a district policy manual that complies with state and federal law and meets local needs. At a facility provided by the district and with facilitation and assistance of the CSBA consultant, district review teams customize CSBA's core sample policy manual to reflect district philosophy and practice. The draft policy manual is returned to CSBA for production and, after adoption by the board, is returned to CSBA for final production.

CSBA also offers a consortium workshop to assist small school districts with policy development. Several small school districts may come together in a central location in a workshop which follows the same basic format as the individual district policy development process.

Keeping policy manuals updated and in compliance

Policy Manual Maintenance

District or COE staff sometimes have difficulty finding time to maintain policies. CSBA's Manual Maintenance service provides policy updates, ongoing consultation and word processing services. Districts and COEs are eligible to contract for the service if they have completed a Policy Development Workshop or maintained an up-to-date manual using CSBA's policy services and copyrighted policy numbering system.