

Policy News

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CSBA assists districts with LCFF implementation

Districts and county offices of education (COEs) have begun to take steps toward implementing California's new Local Control Funding Formula (LCFF) which changes the way that state education funding is allocated, providing increased local flexibility and accountability for spending the funds to improve student achievement. It is expected that this first year will be a transition year as the state continues to issue guidance and related regulations and districts/COEs work to adopt a Local Control and Accountability Plan (LCAP) and align their budgets, policies and practices to the goals and specific actions detailed in the LCAP.

CSBA has developed a number of resources to assist districts/COEs with understanding and implementing the provisions of law and to share best practices that support and increase achievement of student subgroups, including low-income students, English learners and foster youth. These resources have been combined into an LCFF Toolkit and will continually evolve as new content is gathered and created. See CSBA's website at www.csba.org/LCFF.

One of the resources in the toolkit is CSBA's November 2013 policy brief, *Impact of Local Control Funding Formula on Board Policies*, which describes a new way of thinking about board policies that is focused on student outcomes and is aligned with the goals in the LCAP. It also discusses key policy issues raised by LCFF, the impact of the elimination of categorical program requirements and questions that the governance team should consider when reviewing board policies to identify needed changes. At the same time, CSBA issued a special edition of sample policies and administrative regulations impacted by LCFF, including:

- » AR 0420.4 - Charter School Authorization
- » BP/E 0420.41 - Charter School Oversight
- » BP/AR 0460 - Local Control and Accountability Plan
- » BP 0500 - Accountability
- » BP/AR 3100 - Budget
- » BP 3110 - Transfer of Funds

Additional policies impacted by LCFF are included in the December Policy Update, such as BP/AR 6173.1 - Education for Foster Youth and some policies which were revised to delete or amend provisions of categorical programs that were eliminated under the LCFF. Sample materials will be updated on a continual basis as new provisions of law become effective, new state guidance is available, any follow-up legislation is passed and best practices are identified.

A new fact sheet examining the link between LCFF and summer learning opportunities is under development and will soon be available in CSBA's LCFF Toolkit and at www.csba.org/PNB.aspx.



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New legislation impacts policies

As the first half of the two-year legislative session came to an end in October, Gov. Jerry Brown had signed 800 bills, more than 90 of which may impact school districts and/or COEs. Most of these are effective January 1, 2014. Other bills did not make it to the governor's desk and were held over as two-year bills.

CSBA has been reviewing the new legislation and has begun the process of revising sample policies to reflect new legal requirements. A few of the major issues are described below.

State assessment system

Assembly Bill 484 (Ch. 489) replaces the state's Standardized Testing and Reporting (STAR) program with the Measurement of Academic Performance and Progress, now designated by the California Department of Education (CDE) as the California Assessment of Student Performance and Progress (CAASPP). The new system is intended to align state achievement tests with the Common Core State Standards.

For 2013-14, CAASPP will include a field test of English language arts and mathematics assessments which were developed by the multi-state Smarter Balanced Assessment Consortium. The field tests are designed to "test the tests" and will not produce individual student test results or school or district reports. The first full administration of CAASPP will occur in the 2014-15 school year unless the State Board of Education (SBE) determines that the assessments cannot be fully implemented at that time.

Although U.S. Secretary of Education Arne Duncan initially expressed opposition to California's planned assessments, the CDE is continuing to seek a waiver of federal testing requirements. Superintendent of Public Instruction Tom Torlakson has expressed the position that California should not be using "outdated" tests that do not measure the deeper learning and critical thinking that students are expected to demonstrate under Common Core State Standards. Thus, the CDE is moving ahead with plans to administer the CAASPP field tests in the spring of 2014.

In addition to establishing the use of the Smarter Balanced assessments, AB 484 requires the SBE to adopt a primary language assessment that will be administered no later than the 2016-17 school year. During the transition period, districts/COEs may administer the Standards-Based Test in Spanish (STS) at their discretion. Districts/COEs also may, at their discretion and expense, administer the STAR tests in 2013-14 and 2014-15 if they desire to use these tests for accountability or diagnostic purposes.

AB 484 does not affect the high school exit examination or the California Alternate Performance Assessment for students with disabilities. Furthermore, California Standards Tests in science will continue to be administered at grades 5, 8, and 10 until a new science assessment is available that is aligned with the Next Generation Science Standards which were adopted by the SBE in September 2013.

AB 484 requires the SBE to revise the applicable Title 5 regulations by July 1, 2014, to conform to the new assessment system. Draft regulations are included in the agenda for the SBE's January 15-16 meeting (www.cde.ca.gov/be/ag/ag). Among other changes, the proposed regulations would revise the allowable testing accommodations to align with guidelines published by the Smarter Balanced Assessment Consortium.

Impact on CSBA sample policies: CSBA has updated and retitled BP/AR 6162.51 - State Academic Achievement Tests to reflect new law. In addition, CSBA has updated BP 5123 - Promotion/Acceleration/Retention and BP 6179 - Supplemental Instruction to reflect the need to revise the criteria for retention and supplemental instruction which may formerly have included STAR results. CSBA will continue to evaluate the implications of AB 484 for other policies that



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include references to the STAR tests, such as student eligibility for the Golden State Seal Merit Diploma or State Seal of Biliteracy (BP/AR 5126 - Awards for Achievement), student eligibility for partnership academies (AR 6178 - Career Technical Education), or requirements that districts maintain an individual record of accomplishment (BP 5162.5 - Student Assessment).

English learners

This legislative session also produced new guidance addressing the assessment of English language proficiency of students who are English learners. SB 201 (Ch. 478) calls for updated English language proficiency assessments that are aligned with the Common Core State Standards in English language development adopted by the SBE in November 2012. Under the new law, two assessments will be developed: one to be used to conduct an initial screening to identify English learners and another to serve as an annual summative assessment to measure proficiency. The CDE has begun work on the new English Language Proficiency Assessments for California (ELPAC). Once the new assessments are ready, the existing California English Language Development Test (CELDT) will no longer be used.

In addition, SB 201 authorizes the SBE to adopt, no later than November 30, 2015, instructional materials for grades K-8 that are aligned to the Common Core State Standards. Although these materials will not be adopted before the new assessments are in place, districts will have access to a list of standards-aligned supplemental instructional materials that are approved by the SBE; this list will be available by June 30, 2014. An updated English Language Arts/English Language Development state curriculum framework is expected to be available for use in the 2014-15 school year.

Other new legislation (AB 899, Ch. 709) addresses further revision of state standards for English language development. Currently those standards are aligned to Common Core State Standards for English language arts, but AB 899 further requires modifications to link the English language development standards to state standards for mathematics and science by August 1, 2015.

Impact on CSBA sample policy: CSBA is reviewing BP/AR 6174 - Education for English Language Learners.

Homeless students

Several new laws address the needs and rights of homeless students. SB 177 (Ch. 491) requires that a homeless student seeking enrollment in a district, COE or charter school be deemed to meet residency requirements and be immediately enrolled, thereby aligning state law with federal law (42 USC 11432) which already required immediate enrollment of homeless students. SB 177 also adds a duty of the district liaison for homeless students to ensure that public notice of the rights of homeless students is disseminated in all district schools that provide services pursuant to the federal McKinney-Vento Homeless Assistance Act.

AB 1068 (Ch. 713) permits a student who is both homeless and an unaccompanied minor 14 years or older to have access to his/her student records without parental consent. Generally, students must be age 16 years or older or have completed grade 10 in order to be granted access to student records. AB 1068 also prohibits the release of directory information regarding a homeless student without written consent of the student's parent/guardian or a student afforded parental rights in accordance with the federal Family Educational Rights and Privacy Act. "Directory information" is defined in Education Code 49061 and 34 CFR 99.3 but it is the responsibility of districts to adopt policy identifying those categories of records that it may generally release unless notified of a parent/guardian's refusal.



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AB 652 (Ch. 486) clarifies that the fact that a student is homeless or is classified as an unaccompanied minor is not, in itself, a basis for reporting child abuse or neglect. According to the bill's author, Assembly Member Tom Ammiano, this law removes the barrier that keeps many unaccompanied minors from seeking services such as education, shelter, health care, food and employment due to the fear of being referred to law enforcement or child welfare.

Impact on CSBA sample policies: CSBA is reviewing BP/AR 6173 - Education for Homeless Children, AR 5125 - Student Records, BP/AR 5125.1 - Release of Directory Information and 5141.4 - Child Abuse Prevention and Reporting.

Continuation school placement

Under current law, districts that maintain high schools are mandated to adopt policy addressing the involuntary transfer of students into a continuation education program. New law (AB 570, Ch. 365) now mandates districts to adopt policy and procedures if they choose to allow students to voluntarily enroll in a continuation education program. Such policy and procedures must govern the identification, placement and intake procedures for those students, based on a finding that the voluntary placement of the student will promote his/her educational interests. Among other things, the policy and procedures must ensure that:

- » Voluntary placement in continuation school is not used as an alternative to expulsion, except as specified.
- » No specific group of students is disproportionately enrolled in the district's continuation programs.
- » The policies and procedures are provided to students whose voluntary transfer is under consideration and to the parents/guardians of those students.
- » Before a student is transferred, the student and his/her parent/guardian may meet with a counselor, principal or administrator from the student's previous school and the continuation school to determine if transferring is the best option for the student.

Impact on CSBA sample policy: CSBA is reviewing BP/AR 6184 - Continuation Education.

Reports of board votes

SB 751 (Ch. 257) requires that boards publicly report any action taken and the vote or abstention of each board member present for the action. Previously, the Brown Act only required the votes of individual board members to be reported for actions taken during closed sessions and meetings conducted by teleconference.

Under the new law, it is no longer sufficient to report only the number of ayes, nays and abstentions on any action taken. While the law is silent on how unanimous votes should be reported, it is recommended that, as a best practice, the name and vote or abstention of each member be included in the minutes for each action taken.

Impact on CSBA sample policies: CSBA is reviewing BB 9323.2 - Actions by the Board and BB 9324 - Minutes and Recordings.

Outside food sales

Generally, foods and beverages sold outside of the food services program, such as through vending machines, a la carte sales, student stores or fundraisers by student organizations or other groups, are subject to the same nutrition standards required for the food services program. However, foods and beverages that do not comply with state nutrition standards may be sold outside of the district's food services program under certain conditions. AB 626 (Ch. 706) has



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amended related state law to require that any such sales of noncompliant foods and beverages be allowed only if they take place (1) off and away from school premises or (2) on school premises at least one-half hour after the end of the school day. As amended, state law now applies the same requirements to sales of both foods and beverages and to all grade levels.

Schools that participate in the National School Lunch or Breakfast program are also subject to federal requirements pertaining to all foods and beverages sold on campus at any time during the school day. Previously the U.S. Department of Agriculture (USDA) only had authority to regulate nutrition standards during mealtimes, but the Healthy, Hunger-Free Schools Act of 2010 required the USDA to develop standards, consistent with the most recent Dietary Guidelines for Americans, for all food sales at any time during the school day. New regulations were adopted in June 2013 and must be implemented by July 1, 2014. The federal regulations allow states, at their discretion, to create special exemptions from the nutrition standards for infrequent school-sponsored fundraisers; however, California has chosen not to provide any such exemption.

It is important to note that state and federal standards are not entirely consistent. In such cases, schools participating in a federal meal program should implement the stricter standard.

Impact on CSBA sample policy: CSBA has updated AR 3554 - Other Food Sales.

Status of gender identity bill still uncertain as referendum goes to full count

AB 1266 (Ch. 85, 2013), which requires districts/COEs to permit transgender students to participate in gender-segregated school programs and activities (e.g., athletic teams, sports competitions, and field trips) consistent with their gender identity and to use facilities consistent with their gender identity, was scheduled to take effect on January 1. However, there is an effort underway to repeal AB 1266 by placing it on the ballot via a referendum. A random check of the validity of the petition signatures fell between 95 and 110 percent of the number required to qualify the referendum for the ballot, triggering an automatic full count of all submitted signatures. County registrars now have until February 24 to complete the full check of all signatures. At that time, it will be determined whether or not the issue will be placed on the November 2014 ballot.

It is important to note that, regardless of the fate of the referendum, both state and federal law prohibit discrimination on the basis of gender identity. In July 2013, the U.S. Department of Education's Office for Civil Rights and U.S. Department of Justice's Civil Rights Division resolved a complaint against Arcadia Unified School District reinforcing a transgender student's right to use facilities and to participate in activities consistent with the student's gender identity.

In addition, schools participating in the California Interscholastic Federation (CIF) are subject to CIF bylaw 300.D. which provides that all students should have the opportunity to participate in CIF activities in a manner that is consistent with their gender identity (see www.cifstate.org).

CSBA will be issuing a special January edition of Policy Update that will include a new sample administrative regulation AR 5145.3 - Harassment/Nondiscrimination and revisions of BP 0410 - Nondiscrimination in District Programs and Activities and AR 6145.2 - Athletic Competition. Along with the special edition of sample policies and regulations, CSBA will issue an update of its policy brief *Providing a Safe, Nondiscriminatory School Environment for All Students*, which provides information and strategies to prevent discrimination against transgender and gender-nonconforming students (www.csba.org/PNB.aspx).

For further information about AB 1266, see CSBA's *Interim Guidance Regarding Transgender Students, Privacy and Facilities* at www.csba.org/~media/CSBA/Files/Advocacy/ELA/2013_0927_TransgenderInterimGuidance.ashx.



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Recommendations address partial credit for foster youth

When a foster youth transfers between schools, Education Code 48645.5 and 51225.2 require the district to award partial credit for partial coursework completed by the student in the previous school, whether the previous school is a public school, juvenile court school, nonpublic nonsectarian school or agency. The student is then required to take the portion of the course that he/she did not complete at the previous school, and may be required to retake the portion he/she already completed if the district finds, in consultation with the holder of educational rights for the student, that he/she would be reasonably able to complete the requirements in time to graduate from high school.

However, the law does not provide any uniform system for calculating and awarding partial credits to foster youth. A survey by CSBA reveals that many districts in California do not have a formalized policy for the award of partial credits. The California Child Welfare Council (CCWC) established a Partial Credit Workgroup, including several CSBA staff representatives, to study the issue and develop policy recommendations to ensure consistency in the treatment of foster youth.

The resulting recommendations, contained in the CCWC's September 2013 *Partial Credit Model Policy and Practice Recommendations* (available at <http://bit.ly/19fCfvL>), propose that partial credit be awarded on the basis of 0.5 credits for every seven class periods attended per subject, based on an assumption that the district awards five credits per course. If the district assigns a different number of credits per course, it should convert the number of credits accordingly.

Under this model, the length of the class period is irrelevant for calculating partial credits unless a student is in a block schedule in which each class period is 90 minutes or longer. In such cases, each block schedule class period attended should be counted as two regular class periods per subject.

CSBA has updated its sample AR 6173.1 - Education for Foster Youth to reflect these recommendations.

According to *At Greater Risk*, a recent report issued by the Stuart Foundation and cited in the CCWC report, only 40 percent of foster youth graduate high school compared to 72 percent of the general student population. Repeated transfers throughout high school and lapses in school attendance often prevent foster youth from earning the credits needed to graduate; many drop out and never receive a high school diploma or GED. It is hoped that the adoption and implementation of district policy ensuring that foster youth receive credit for all work satisfactorily completed at previous schools will allow those students to focus on the classes needed to graduate.

The CCWC also recommends that this model policy be used as guidance for all populations of students who transfer at any time during the school year, particularly highly mobile students such as homeless students, migrant students and students from military families.



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California Supreme Court rules on insulin administration in schools

A recent ruling by the California Supreme Court (*American Nurses Association v. Torlakson*) clarifies who may administer insulin and other medications at school to students with diabetes and other health conditions and under what circumstances. The court held that California law allows trained school personnel who do not possess a medical license to administer insulin at school, as long as the student's parent/guardian consents to the provision of care by unlicensed school personnel and submits the physician statement required by law.

The California Supreme Court decision resolves a battle that has been going on for many years, beginning with a class action lawsuit brought by the American Diabetes Association in 2005 accusing the state of "failing to ensure the provision of health care services to students with diabetes, including insulin administration, that was necessary to enable those students to obtain free appropriate public education." Settlement of that lawsuit resulted in a CDE advisory suggesting that unlicensed school personnel be allowed to administer insulin, but the legality of that advisory was then challenged by the American Nurses Association.

A 2008 trial court decision and a 2010 appellate court decision both held that only licensed medical personnel could administer insulin. Those courts suggested that a legislative fix would be necessary to allow unlicensed personnel to administer insulin, but subsequent proposed legislation failed to pass.

According to Brian Dimmick, director of litigation for the American Diabetes Association, the California Supreme Court's decision facilitates the care of diabetic students at times when a school nurse may be absent or helping other students. "Since children need insulin at predictable and unpredictable times, schools need to have staff capable of administering insulin throughout the school day and during all school-sponsored activities."

Schools that desire to permit unlicensed school personnel to administer insulin or other medications to students must comply with applicable provisions of state law, including requirements that the school:

- » Obtain written statements from both the student's parent/guardian and physician requesting that the school assist the student and containing other specified information.
- » Provide appropriate training to school personnel designated to administer medication. At a minimum, such training must include how and when the medication should be administered, the recognition of symptoms and treatment, emergency follow-up procedures and the proper documentation and storage of medication.
- » Ensure that unlicensed school personnel designated to administer medication are supervised by and provided with immediate communication access to a school nurse, physician or other appropriate individual.

Training of unlicensed school personnel may be provided by school nurses or by other health care professionals, such as certified diabetes educators. Training materials are available from the American Diabetes Association at www.diabetes.org/schooltraining.

CSBA has updated BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions to reflect the new ruling. In addition, these samples were updated with new Title 5 regulations with respect to training employees who volunteer to administer emergency antiseizure medications to students who suffer from epileptic seizures.



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CDE encourages policy addressing e-cigarettes

In correspondence to county Tobacco Use Prevention Education coordinators, the CDE has called attention to the growing problem of electronic cigarettes on school campuses and has shared information about the dangers of e-cigarettes which provide an inhalable dose of nicotine through a vaporized solution. The correspondence encourages boards to adopt policy prohibiting student or adult use, on district property or in district vehicles, of e-cigarettes and other vapor-emitting electronic devices that mimic the use of tobacco products (e.g., electronic hookah), whether or not they contain nicotine content.

Although state law does not define “tobacco products” for purposes of the district’s tobacco-free schools policy, CSBA’s sample BP 3513.3 - Tobacco-Free Schools and BP 5131.62 - Tobacco currently contain optional language that prohibits the use of nicotine delivery devices such as e-cigarettes. That language is based on an earlier recommendation by the CDE that the district’s policy define “tobacco products” to prohibit the use of products containing tobacco or nicotine, including nicotine delivery devices such as e-cigarettes.

Health and Safety Code 119405 makes it unlawful for a person to sell or otherwise furnish an electronic cigarette to a minor under age 18, but does not specifically make it unlawful for a minor to use such products. In 2013, legislation was proposed (SB 648) to prohibit the use of any product containing tobacco or nicotine products, including e-cigarettes, by students while on campus, while attending school-sponsored activities or while under the supervision of district personnel, but that bill has not yet reached the governor’s desk.

The CDE acknowledges that few scientific studies on the health implications of e-cigarettes are available, but points out that e-cigarettes generally contain nicotine which may be addictive and other toxic chemicals that irritate airways and may lead to allergic reactions. Furthermore, others who are exposed may experience adverse health effects because of the emission of fine and ultrafine inhalable liquid particles, nicotine and cancer-causing substances into indoor air.

For further information related to e-cigarettes and tobacco prevention efforts, see the CDE website at www.cde.ca.gov/ls/he/at/tupe.asp.

CSBA education opportunities

To register or obtain further information about the following education opportunities, go to www.csba.org/TrainingAndEvents.aspx.

Forecast webcast

In this annual webcast scheduled to coincide with the Governor’s budget proposal, CSBA Executive Director Vernon M. Billy will moderate a panel discussion of education and economic issues. Joining him will be Assistant Executive Director for Governmental Relations Dennis Meyers and his team of legislative advocates and Christopher Thornberg, founding partner of Beacon Economics and widely considered to be a leading expert on California’s economy.

The two-hour webcast will be presented January 22 starting at 10:00 a.m. There is no charge to CSBA members, but registration is required.



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Brown Act workshop

Board members, superintendents and executive assistants often have questions about the Brown Act and its guidelines for open meetings. “Brown Act: What You Need to Know” is an interactive session that explores the intricacies of the complex act and how to apply the law. Topics include:

- » **the agenda:** development, posting, distribution, contents and restrictions
- » **the meeting:** open meeting laws, the Brown Act, Education Code requirements, local board bylaws
- » **closed sessions:** when to have them, when to not and who gets to decide

The evening session is scheduled for 5:30-8:30 p.m. on the following dates:

- » January 24 - Sacramento
- » January 31 - Garden Grove
- » February 7 - Fresno
- » February 28 - Burbank
- » March 7 - Burlingame

The registration fee is \$175 for early registration or \$185 for on-site registration. Attendees who register to attend this workshop and the Board Presidents Workshop during the same weekend will receive a \$50 discount.

Board Presidents workshop

“Board Presidents Workshop: Tools for Strategic Leadership” provides current and aspiring board presidents with tips and techniques to build effective governance teams, conduct meaningful meetings and fulfill governance responsibilities while focusing efforts on improved student learning and achievement. The one-day workshop (8:30 a.m. - 4:00 p.m.) will be held:

- » January 25 - Sacramento
- » February 1 - Garden Grove
- » March 8 - Burlingame

The registration fee (\$215 for early registration or \$225 for on-site registration) includes materials, lunch and refreshments.

Redesigned Masters in Governance program

CSBA’s highly acclaimed Masters in Governance program has been redesigned with an accelerated timeline, convenient format and program flexibility for busy professionals. The new program includes the same core governance principles that have made the program a standard for board member professional development, but can be completed at the board member’s own pace. The five courses include:

1. Foundations of Effective Governance / Setting Direction
2. Policy and Judicial Review / Student Learning and Achievement
3. School Finance
4. Human Resources / Collective Bargaining
5. Community Relations and Advocacy / Governance Integration

Program modules are offered at various locations statewide throughout the year. Participants can complete two modules in one day, or four modules in two days, and finish the entire program in one year or less.



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