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At the forefront: Student discipline issues

In the development of the Local Control and Accountability Plan (LCAP), local educational agencies are required to establish goals for the state priority of school climate and specific actions to achieve those goals. State law specifies that school climate must be measured by student suspension and expulsion rates and other local measures, including surveys of students, parents/guardians and teachers regarding their perception of school safety and school connectedness, as applicable.

As districts and county offices of education review their discipline-related policies, they are encouraged to consider the following emerging issues. Some of these are addressed in BP/AR 5144 - Discipline and BP/AR 5144.1 - Suspension and Expulsion/Due Process, as updated in fall 2012 and again in April 2014.

Reducing out-of-school suspensions and expulsions

Concerns about possible overuse of suspension and expulsion as disciplinary strategies and their effectiveness in correcting student behavior have recently been expressed by state and federal agencies, educators and student rights advocates.

The U.S. Department of Justice's Civil Rights Division and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter: Nondiscriminatory Administration of School Discipline, cite studies that suggest a correlation between exclusionary discipline policies and practices and an array of serious educational, economic and social problems, including school avoidance, diminished educational engagement, decreased academic achievement, increased behavior problems, increased likelihood of dropping out of school, substance abuse and involvement with juvenile justice systems.

In California, legislation passed in 2012 (AB 1729) requires that suspension and expulsion be imposed for certain offenses only when other means of correction have failed. The law provides examples of such other means of correction.

The use of suspension or expulsion for incidents involving disruption of school activities or willful defiance of the authority of school personnel, though permitted by Education Code 48900(k), has increasingly come under fire by educators and advocacy groups who believe that this ground is too subjective and that suspension/expulsion should be reserved for more serious offenses. Statewide, suspensions for willful defiance make up over 40 percent of all suspensions. A number of districts have made the decision to eliminate willful defiance as a ground for suspension/expulsion, and legislative efforts to limit the use of suspension/expulsion for willful defiance continue.

The Dear Colleague letter is available at <http://1.usa.gov/1irRa41>. Other useful resources include CSBA's new fact sheet *The Case for Reducing Out-of-School Suspensions and Expulsions* (www.csba.org/GovernanceAndPolicyResources/ConditionsOfChildren/SafeSupportiveSchlEnvironment.aspx) and Public Counsel's *Fix School Discipline: How We Can Fix School Discipline Toolkit for Educators* (www.fixschooldiscipline.org/toolkit).

Ensuring nondiscrimination in student discipline

The problem of exclusionary discipline, such as suspension or expulsion, is compounded by findings that suggest students of certain racial or ethnic groups and students with disabilities are suspended or expelled more often than other students and thus are at increased risk of missing educational opportunities. The Civil Rights Data Collection conducted by OCR in 2011-12 found that African American students were more than three times as likely as their white peers to be expelled or suspended. African American students represented 15 percent of the sample but more than a third of suspensions and expulsions. According to OCR, these results could not be explained by more frequent or more serious misbehavior by students of color.

California data from the same year show similar results: African American students were 6.5 percent of total enrollment but made up 19 percent of suspensions for willful defiance. The rate of suspensions for Hispanic students was consistent with their proportion of total enrollment (52 percent of enrollment, 54 percent of suspensions), while white students were suspended at a lower rate than their total enrollment (26 percent of enrollment, 20 percent of suspensions).

Any district determined to have engaged in unlawful discrimination may be subject to OCR investigation and significant remedial action. Thus, it is recommended that districts review the January 2014 Dear Colleague Letter referenced above, review disaggregated district data on student disciplinary referrals and actions and take steps to eliminate any discrimination.

The Dear Colleague letter notes that discrimination rarely occurs because of policies that explicitly require different discipline based on student characteristics. Rather, it may occur when school staff administer policy in a discriminatory manner, such as by disciplining students of different races differently for the same offense or overlooking a violation of a policy committed by a student who is a member of one racial group while strictly enforcing the policy against a student who is a member of another racial group. The appendix to the Dear Colleague letter includes recommendations for districts, administrators, teachers and staff that address the following areas:

- » Safe, inclusive and positive school climates that provide students with supports such as evidence-based tiered supports and social and emotional learning
- » Training and professional development for all school personnel
- » Appropriate use of law enforcement
- » Nondiscriminatory, fair and age-appropriate discipline policies
- » Communicating with and engaging school communities
- » Emphasizing positive interventions over student removal
- » Monitoring and self-evaluation
- » Data collection and responsive action

To ensure consistent implementation of student discipline policy, a number of districts have developed a “progressive discipline matrix” to communicate expectations to school employees. Such a chart lists types of misconduct and the discipline that shall be implemented for the first and subsequent infractions. Examples of such a matrix may be viewed at Arcadia Unified School District (<http://bit.ly/Q1F1fh>), Natomas Unified School District (<http://bit.ly/1oKr7hp>), and Dublin Unified School District (<http://bit.ly/1heCqJL>).



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Disciplining students for off-campus cyberbullying

The extent to which students may be disciplined for conduct originating off campus has been considered by the courts, which have attempted to balance the need for safety on campus with students' First Amendment right to freedom of speech. Generally, the courts have upheld the right to discipline students when such off-campus conduct posed an identifiable threat to the safety of other students, staff or school property or presented a risk of substantial disruption of school activities, provided that the district was able to document the impact or disruption that the conduct had, or could be expected to have, on school activities.

Recent legislation (AB 256, 2013) further clarifies and expands the authority of school administrators to discipline students for off-campus cyberbullying. AB 256 defines bullying by an electronic act to include any creation or transmission originating on or off the school site. Thus, for purposes of determining whether the cyberbullying may be subject to suspension or expulsion, the act does not necessarily need to have been committed while at school, while coming to or from school, or during a school-sponsored activity. However, the electronic act needs to satisfy the criteria specified in the definition of "bullying" in Education Code 48900 (i.e., be severe or pervasive, have or reasonably be predicted to have the effect of placing a reasonable student in fear of harm to his/her person or property, and cause a substantially detrimental effect on the victim's physical or mental health or a substantial interference with his/her academic performance or his/her ability to participate in or benefit from school services, activities, or privileges).

For further information, see BP/AR 5144.1 – Suspension and Expulsion/Due Process as updated in April and CSBA's new fact sheet *Recent Legislation on Cyberbullying: AB 256*. BP 5131.2 – Bullying is also being reviewed and is expected to be reissued soon.

OAL approves state regulations to implement LCFF

The Office of Administrative Law has approved emergency regulations implementing components of the Local Control Funding Formula (LCFF):

- » **Expenditure of supplemental and concentration grant funds.** 5 CCR 15494-15496 address the requirement that supplemental and concentration grants apportioned on the basis of "unduplicated pupils" (i.e., students eligible for free or reduced-price meals, foster youth and English learners, as defined in Education Code 42238.01) be used for schoolwide or districtwide purposes to increase or improve services for unduplicated pupils at least in proportion to the increase to the district's revenue generated from such funds. The state regulations clarify what it means to "increase or improve" services and establish a method for determining the percentage by which services for such students must be increased or improved above services provided to all students in the fiscal year. CSBA updated BP 3100 - Budget in October 2013 to call for alignment of the district's budget with law and state regulations related to the expenditure of LCFF funds.
- » **Standards and criteria for reviewing budgets and interim reports.** Standards and criteria (5 CCR 15453-15493) have been updated to replace the standard for revenue limits with a standard for LCFF revenue beginning in the 2014-15 fiscal year. In addition, the standards and criteria provide an expectation that projected LCFF revenue for the current fiscal year or any of the two subsequent fiscal years should not have changed by more than two percent since budget adoption. CSBA updated AR 3460 - Financial Reports and Accountability in April to reflect the new state regulations.



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- » **K-3 class size reduction.** Definitions and calculations for determining average class enrollments for purposes of the state K-3 grade span adjustment funding have been added in 5 CCR 15498-15498.3. The LCFF requires that, in order to receive the additional adjustment to the K-3 base grant, a district must make progress toward maintaining an average class size of 24 students in grades K-3, unless a different ratio is negotiated for each school site. This requirement, along with the elimination of the previous K-3 Class Size Reduction program and Morgan-Hart Class Size Reduction program for grades 9-12, are reflected in BP 6151 - Class Size as updated in April.
- » **LCAP template.** The State Board of Education has developed a template for the LCAP (5 CCR 15497), which districts are required to use when developing their LCAP by July 1, 2014, and when annually updating the LCAP thereafter. The template allows districts to organize their goals for the eight state priorities into three categories: (1) *conditions of learning*, including Williams compliance (teacher qualifications, access to instructional materials, facilities in good repair), implementation of Common Core State Standards and student access to a broad course of study; (2) *student outcomes*, including student achievement as measured by specified indicators and student outcomes in the course of study; and (3) *engagement*, including parent involvement, student engagement and school climate. The template clarifies how a district goal may address multiple priorities or the district may identify school sites and student subgroups that have the same goals and may group and describe those goals together.

The LCAP development process is addressed in BP/AR 0460 - Local Control and Accountability Plan. In April, CSBA updated BP 0200 - Goals for the School District to align the district's goal-setting process with the LCAP development process and reflect the availability of the template. CSBA also updated BP/AR 1312.3 - Uniform Complaint Procedures to reflect the mandate that districts adopt policies and procedures by June 30, 2014, implementing the use of the uniform complaint procedures to resolve complaints alleging noncompliance with requirements related to the LCAP.

For ongoing updates related to the LCFF and LCAP, check CSBA's LCFF Toolkit at www.csba.org/LCFF.

CSBA addresses transgender student rights as AB 1266 referendum effort fails

Districts have a responsibility under state and federal law to provide a nondiscriminatory school environment for all students, and legislation signed in 2013 made it clear that this rule applies to gender-segregated facilities, programs and activities. AB 1266 provides that students must be permitted to participate in school programs and activities (e.g., athletic teams, sports competitions and field trips) and to use facilities (e.g., locker rooms, restrooms) consistent with their gender identity. An effort to stop implementation of the bill by placing a referendum on the state ballot failed to achieve a sufficient number of valid petition signatures.

Even before the outcome of the referendum effort was known, CSBA encouraged districts to address these issues because of the need to ensure school safety and nondiscrimination and to comply with California Interscholastic Federation bylaws for schools participating in interscholastic athletic programs. In February, CSBA issued a special edition of Policy Update reflecting AB 1266 and best practices, including a new sample administrative regulation AR 5145.3 - Nondiscrimination/Harassment and revisions of BP 0410 - Nondiscrimination in District Programs and Activities and AR 6145.2 - Athletic Competition. At the same time, CSBA updated and retitled its policy brief that provides information and strategies to prevent discrimination



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against transgender and gender-nonconforming students (*Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students*), available at www.csba.org/PNB.

In March, CSBA's legal department updated its earlier interim guidance on AB 1266. *Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities and Facilities* is available at www.csba.org/ELA.

State standards for expanded learning programs issued

In February, the California Department of Education (CDE) released a set of 12 program quality standards for expanded learning programs. The final standards address a safe and supportive environment; active and engaged learning; skill building; youth voice and leadership; healthy choices and behaviors; quality staff; diversity, access and equity; clear vision, mission and purpose; collaborative partnerships; continuous quality improvement; program management; and sustainability. Read the report on the standards at www.afterschoolnetwork.org/post/quality-standards-expanded-learning-programs.

The effort to define program quality arose from a recommendation in the CDE's After School Division's strategic plan for 2014-2016. A work group consisting of participants from the CDE After School Division and the California Afterschool Network, a coalition of experts and program providers, was convened for this task.

In recommending the standards, the work group also stated that it would be important to provide further context and to outline for the field what the standards look like in action. As a result, a second phase of the work group was created and charged with recommending examples of standards in practice and a matrix of existing quality assessment tools that could be used to measure progress toward the standards. The work group began this work in March and will make its final recommendations to the CDE by June 30, 2014.

CSBA addresses expanded learning programs in BP/AR 5148.2 - Before and After School Programs and will review the policy implications of the new standards.

New dates for CSBA Annual Education Conference and Trade Show

CSBA's Annual Education Conference and Trade Show will be held later than usual this year—Sunday, December 14 through Tuesday, December 16 in San Francisco. AEC is CSBA's premier continuing education program, delivering practical solutions to help governance teams from districts and county offices of education improve student learning and achievement.

The major strands of the conference will include the following, as they relate to governance teams and their policy role: opportunity and achievement; student learning; funding, finance and facilities; leadership through governance; and partnerships and collaborations.

Registration will open June 10. See <http://aec.csba.org> for additional information.



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Districts encouraged to nominate programs for Golden Bell Award

CSBA is accepting applications for the 2014 Golden Bell Awards program through June 30, 2014. Now in its 35th year, the program recognizes outstanding programs and best practices in education in all areas of operations, instruction and support services. To be eligible, a program must be operating in a CSBA member district or county office of education and have started at least two years prior to the entry deadline.

Exemplary programs will be considered in 19 major categories which are essential to support effective governance and teaching and learning: accountability/assessment; career technical education; closing the achievement gap; co-curricular programs; Common Core; community schools through partnerships and collaboration; county offices of education; curriculum and instruction; early childhood education; English language acquisition; civic education; parent/community involvement; professional development and teacher recruitment/retention; school climate; special education; student services; sustainable, renewable, energy and resource-efficient programs; technology; and wellness.

The entry form, criteria and examples of winning programs are available at <http://gb.csba.org>.

New resources from CSBA

2013 Policies in Review

Each year CSBA's Member Services Department publishes an overview of the major policy issues addressed in sample policies and administrative regulations, policy briefs, fact sheets and the *Policy News* throughout the year. *2013 Policies in Review* describes critical policy issues in the categories of accountability, curriculum and instruction, fiscal issues, governance, personnel, safety, student assessment, student health and wellness, student populations (English learners, foster youth, homeless students, transgender students and students with disabilities) and more.

Appendices provide complete lists of publications, leadership development opportunities, and sample policies and regulations issued in 2013, as well as descriptions of the policy services offered by CSBA.

2013 Policies in Review is available at www.csba.org/PNB.

Summer learning resources

Two new publications on summer learning have been jointly issued by CSBA and Summer Matters, an initiative of the Partnership for Children and Youth.

Summer Learning Programs: Implications of the LCFF describes the impact of the LCFF on funding for summer programs, including the elimination of separate categorical funding for some supplemental instruction programs, and suggests funding sources that may be used to provide summer programs. This fact sheet also considers how the flexibility inherent in the LCFF creates new challenges and opportunities to create summer programs that meet local needs and goals identified in the LCAP. In particular, high-quality summer programs may help districts meet goals related to state priorities for student achievement, implementation of Common Core State Standards, student enrollment and outcomes in a broad course of study, student engagement and school climate.

Summer Learning Survey Examines District Practices, Plans and Perceptions reports the results of an online survey and focus groups conducted by CSBA in fall 2013 to determine the extent to



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which summer learning programs are available in California, the types of programs being offered, challenges to implementation and opportunities to assist districts in providing such programs. The findings are largely positive, indicating that respondents perceive many benefits of summer learning programs and that two-thirds of their districts offered summer programs in 2013 and plan to do so in 2014. Recommendations include actions that governance teams and others can take to support the development and expansion of summer programs.

These publications are supported by a grant from the David and Lucile Packard Foundation and are available at www.csba.org/summerlearning.

Physical fitness update

A new fact sheet from CSBA, *Physical Education: A Slow Start to a Promising Educational Boost*, reviews the most recent data from California's assessment of students' physical fitness. FITNESSGRAM results from 2013 show a slight improvement over the previous year for students in grades 5 and 7 and no change for students in grade 9. Approximately 26 percent of fifth-graders, 32 percent of seventh-graders and 37 percent of ninth-graders scored in the "Healthy Fitness Zone" for all six areas measured by the test.

As the fact sheet indicates, research suggests that increasing opportunities for physical activity can help improve outcomes in three state priority areas addressed in the LCAP: student achievement, student engagement and school climate. Governing boards are encouraged to review the amount of instructional time that students spend in physical education, the provision of professional development and other resources to support PE, goal setting for physical fitness test results, communication of fitness test results and ways that the district can motivate and empower students to be physically fit.

The fact sheet is available at www.csba.org/GovernanceBriefs.



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