

Policy News

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New legislation impacts policies

In 2014, Gov. Jerry Brown signed 931 bills, over 100 of which may impact K-12 education. CSBA has reviewed the legislation and has begun the process of revising sample policies and administrative regulations to reflect new legal requirements. Some of the major issues impacting district policies are described below.

District reserves

Although state standards and criteria for district budgets establish a *minimum* recommended reserve for economic uncertainties based on the district's average daily attendance (ADA), SB 858 (Ch. 32), the education budget trailer bill, limits the maximum amount of funds that may be held in district reserves and ending balances. These provisions of SB 858 were contingent upon the passage of Proposition 2 in November 2014, which was approved by voters. The limit would only apply in a fiscal year immediately following a fiscal year in which the state makes a deposit of any amount into the state's Public School System Stabilization Account (the Proposition 98 reserve that was created by Proposition 2).

In such a case, a district with an ADA of 400,000 or less would be limited to two times the minimum recommended reserve specified in 5 CCR 15450. For a district with over 400,000 ADA, the limit would be three times the minimum recommended reserve.

A county superintendent of schools may grant an exemption of this requirement for up to two consecutive fiscal years within a three-year period to any district that documents extraordinary fiscal circumstances that substantiate the need for a reserve in excess of the limit.

CSBA and a number of education groups opposed the caps on the grounds that governing boards should be allowed to determine appropriate reserve levels and funding balances to address local priorities, future expenditures and economic downturns. CSBA is continuing efforts to repeal provisions of SB 858 related to these limits. For further information about the reserve limit, including what actions districts could take to support the repeal, see www.csba.org/Advocacy/LegislativeAdvocacy.

Impact on CSBA sample policy: BP 3100 - Budget was updated in December to reflect new law.

Student privacy and technology

Confidentiality of student records, including student privacy in cyberspace, was a hot topic this past year. Three new bills addressing this topic were signed by the Governor:

- » Pursuant to AB 1442 (Ch. 799), districts that are considering the adoption of a program for gathering or maintaining records or information from students' social media activity must first notify parents/guardians and provide an opportunity for public comment at a regularly scheduled board meeting. If a district then approves such a program, it can only collect information that pertains directly to school or student safety. As with



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other student records, students and parents/guardians are entitled to access the information the district gathers from social media and have the right to challenge the accuracy of the information. However, any information gathered from social media sources must be destroyed within one year of the student turning age 18 years or leaving the district, whichever occurs first.

- » AB 1584 (Ch. 800) requires that certain provisions be included in any contract between districts and third parties for cloud computing services, digital storage or educational software used for the management and retrieval of student records. Among other things, the contract must include a description of actions the third party must take to ensure the confidentiality and security of student records, the process by which parents/guardians will be notified of a security breach, a prohibition against the use of student information for targeted advertising and certification that student records will not be retained or made available to a third party upon completion of the contract. A district that chooses to enter into such a contract is mandated to adopt policy allowing such contracts.
- » Effective January 1, 2016, the Student Online Personal Information Protection Act (SB 1177, Ch. 839) prohibits operators of educational websites, online services, online applications and mobile applications from selling or disclosing student information (e.g., name, address, phone number, test results, socioeconomic information, food purchases) or using it to target advertising. These provisions apply to vendors that provide services to K-12 students, whether in the classroom or at home. If a school or district requests that a vendor delete its copy of student data, the vendor must do so.

As districts review their data protection policies, they might consult a useful guide from the National School Boards Association, *Data in the Cloud: A Legal and Policy Guide for School Boards on Student Data Privacy in the Cloud Computing Era* (April 2014), available at http://nsba.org/sites/default/files/reports/DataInTheCloud_Guide_NSBA_COSA.pdf.

Impact on CSBA sample policy: BP/AR 5125 - Student Records was updated in December to reflect new law. In addition, CSBA is reviewing the implications of AB 1584 for BP 3312 - Contracts.

Student discipline

AB 420 (Ch. 660) prohibits the expulsion of any student for disruption or willful defiance. It also prohibits the suspension of students in grades K-3 for either of these reasons. Although districts retain the authority to suspend students in grades 4-12 for disruption or willful defiance, state law allows suspension to be used only when other means of correction have failed to bring about proper conduct in the student.

Even before the passage of AB 420, CSBA's sample BP/AR 5144.1 - Suspension and Expulsion/Due Process and many local board policies had been revised to eliminate or limit the use of disruption or willful defiance as a ground for suspension/expulsion. This trend is also evident in California Department of Education (CDE) data on suspensions/expulsions for defiance which show a significant decline between 2011-12 and 2012-13 in both suspensions (decreasing 23.8 percent) and expulsions (decreasing 18.6 percent) (CDE News Release #14-11). This change is partly due to a growing recognition that exclusionary disciplinary practices such as suspension and expulsion limit the opportunity for students to learn and are disproportionately used with certain ethnic groups.

Alternative means of discipline that might be used to correct student behavior are addressed in BP/AR 5144 - Discipline. Also see CSBA's April 2014 Fact Sheet *The Case for Reducing Out-of-School Suspensions and Expulsions*, available at www.csba.org/GovernanceBriefs.

Impact on CSBA sample policy: BP/AR 5144.1 - Suspension and Expulsion/Due Process was updated in December to reflect new law.



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Homeless students

Certain protections that were recently granted to foster youth have now been extended to homeless students pursuant to AB 1806 (Ch. 767), including:

- » awarding partial credits to homeless students who transfer from school to school
- » exempting homeless students who transfer in grades 11-12 from locally established high school graduation requirements (but not from state graduation requirements for course completion or the high school exit examination)
- » allowing homeless students to remain in high school for a fifth year to enable them to complete graduation requirements

Note that the law does not specify how partial credits must be calculated when homeless students transfer between schools. AR 6173 - Education for Homeless Children borrows the approach for addressing credit transfers that is recommended by the California Child Welfare Council in its *Partial Credit Model Policy and Practice Recommendations* and reflected in AR 6173.1 - Education for Foster Youth. This approach awards partial credits on the basis of 0.5 credits for every seven class periods attended per subject and provides that any class on block schedule will be equal to two regular class periods.

Other provisions of AB 1806 address expulsion hearings for homeless students and require notification of the district liaison for homeless students 10 days before the hearing when the student's alleged violation does not require a mandatory recommendation for expulsion.

Impact on CSBA sample policy: AR 6173 - Education for Homeless Children and AR 5144.1 - Suspension and Expulsion/Due Process were issued in December to reflect new law.

Health examinations and emergency care

Several bills signed by the Governor address issues related to the health of students and staff:

- » AB 1667 (Ch. 329) replaces mandated tuberculosis testing of employees and volunteers with a risk assessment questionnaire administered by a health care provider. A tuberculin skin test is now required only when the risk assessment shows that the employee or volunteer has an identified risk factor.

The risk assessment is available on the website of the California Department of Public Health (<http://bit.ly/17jg4F7>) and will be distributed to districts by the CDE.

This public policy change reflects the low incidence of tuberculosis among staff considering the high cost of testing. For instance, the cost for testing staff in 2010-11 was estimated at over \$3 million, with about eight cases detected (California School Nurses Organization and California Tuberculosis Controllers Association, <http://bit.ly/1yBvMa3>). Because districts are required to reimburse employees for the cost of the tuberculosis test and may choose to reimburse job applicants for the test, the change in requirements is expected to save districts a considerable amount of money.

- » AB 2217 (Ch. 812) authorizes districts to solicit and receive nonstate funds to acquire and maintain an automated external defibrillator (AED) and to train employees in its use. It also clarifies liability issues. Districts will not be liable for civil damages resulting from any act or omission in rendering emergency care or treatment if they comply with the requirements of Health and Safety Code 1797.196 including, but not limited to, requirements regarding placement of the AED, maintenance and testing of the equipment, employee notification and training, and availability of a written plan. Furthermore, except in cases of gross negligence or willful or wanton misconduct, district employees are not liable for civil damages resulting from the use, attempted use or nonuse of an AED.



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- » SB 1266 (Ch. 321) requires districts to provide epinephrine auto-injectors, also known as EpiPen, to school nurses or other employees who volunteer and receive training. The EpiPen may be used to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. SB 1266 deleted the requirement to develop a district plan and added requirements related to the types of EpiPen that must be provided to each school, the district personnel authorized to obtain the prescriptions, an annual employee notification to request volunteers and the review of training standards every five years by the Superintendent of Public Instruction. While the new law requires at least one trained employee per school and at least one EpiPen at each middle or high school (or one regular and one junior EpiPen at each elementary school), the California School Nurses Organization recommends that at least two or three employees be identified and trained and at least two devices be provided per site (<http://bit.ly/1s61EkK>).
- » SB 1172 (Ch. 925) requires school vision tests to include near-vision screening and specifies the grade levels at which students' vision must be appraised, including in kindergarten or upon first enrollment in the district and at grades 2, 5 and 8. However, a student whose first enrollment occurs in grade 4 or 7 is not required to be appraised the following year.

Impact on CSBA sample policy: AR 1240 - Volunteer Assistance, AR 4112.4/4212.4/4312.4 - Health Examinations, AR 5141 - Health Care and Emergencies, AR 5141.21 - Administering Medication and Monitoring Health Conditions and AR 5141.3 - Health Examinations were updated in December to reflect new law.

Child abuse reporting

AB 1432 (Ch. 797) requires school districts, county offices of education and charter schools to provide annual training to all employees and persons working on their behalf who are mandated to report known or suspected child abuse or neglect. Under the new law, any mandated reporter who is hired during the school year must complete training within the first six weeks of his/her employment. In addition, all existing employees who are mandated reporters must provide proof of completing the training within the first six weeks of each school year. Since the law is effective January 1, 2015, the obligation for existing employees to complete training within the first six weeks of the school year will start with the 2015-16 school year.

Information about online training from the California Department of Social Services, which is being updated to satisfy the requirements of AB 1432, is available at www.mandatedreporterca.com.

Several related bills were also signed by the Governor. AB 1775 (Ch. 264) revises the definition of sexual exploitation. AB 2560 (Ch. 110) requires applicants for a new or renewed credential to sign a statement that they understand their obligations as mandated reporters. AB 2016 (Ch. 809) authorizes districts to provide instruction in sexual abuse and sexual assault awareness and prevention, and requires CDE to consider adding these topics in the next revision of the health content standards and framework.

Impact on CSBA sample policy: BP/AR 5141.4 - Child Abuse Prevention and Reporting was updated in December to reflect new law. CSBA also expects to update the list of charter school responsibilities in E 0420.42 - Charter School Oversight.

Sick leave for employees

Beginning July 1, 2015, the Healthy Workplaces, Healthy Families Act (AB 1522, Ch. 317) requires districts to grant paid sick leave to temporary, substitute and part-time employees who work 30 or more days within a year. Such employees will be entitled to one hour of sick leave for every 30 hours worked and may begin to use accrued sick days on the 90th day of employment. The



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law also expands the purposes for which sick leave may be used to include:

- » preventive care or the diagnosis, care or treatment of an existing health condition for an employee or the employee's family member (expanded to include a registered domestic partner, grandparent and sibling)
- » the need of an employee who has been a victim of domestic violence, sexual assault or stalking to obtain or seek relief (including social and legal assistance) or medical attention for himself/herself or his/her child

The sick leave provisions added by AB 1522 do not apply to employees covered by collective bargaining agreements if the agreement expressly provides for paid sick leave for employees, final and binding arbitration of disputes regarding the application of the paid sick days provisions, premium wage rates for overtime, and a regular hourly rate of pay of at least 30 percent more than the state minimum wage rate. Thus, districts should review their collective bargaining agreements to determine whether all requirements for the exemption are met and to ensure that the agreements cover all possible uses of sick leave specified in the new law.

Districts that are unsure how AB 1522 applies to certain types of employees should consult legal counsel. In addition, the California Department of Industrial Relations has posted Frequently Asked Questions regarding AB 1522 at www.dir.ca.gov/dlse/Paid_Sick_Leave.htm.

Impact on CSBA sample policy: BP 4121 - Temporary/Substitute Personnel, AR 4161.1/4361.1 - Personal Illness/Injury Leave, AR 4161.2/4261.2/4361.2 - Personal Leaves, and AR 4261.1 - Personal Illness/Injury Leave were revised in December to reflect new law.

State Board adopts regulations on LCFF and LCAP

The State Board of Education (SBE) has adopted and the Office of Administrative Law has approved final spending regulations for the Local Control Funding Formula (LCFF) and a revised template for the Local Control and Accountability Plan (LCAP). The new regulations replace emergency regulations adopted and readopted earlier in 2014.

CSBA updated BP 3100 - Budget in December to reference the applicable state regulations and is reviewing the implications of the new regulations on BP/AR 0460 - Local Control and Accountability Plan.

LCFF spending requirements

State law requires that LCFF supplemental and concentration funds, apportioned on the basis of unduplicated counts of low-income students, English learners and foster youth, be used to increase or improve services for those student populations at least in proportion to the increase to the district's revenue generated from such funds. The newly adopted regulations address the method of calculating the percentage by which services for unduplicated students must be increased or improved above services provided to all students in the fiscal year.

In addition, 5 CCR 15496 identifies the conditions under which funds may be used to upgrade the entire educational program of a school, district, charter school or county office of education. The district's LCAP must identify those services that are being funded and provided on a districtwide or schoolwide basis and describe how such services are principally directed towards, and are effective in, meeting the district's goals for its unduplicated students in state and local priority areas. If the percentage of unduplicated students is less than 55 percent of the total district enrollment or less than 40 percent of the school enrollment, the LCAP must also describe how funding the districtwide or schoolwide services constitutes "the most effective use" of the funds to meet the district's goals for its



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unduplicated students and the basis for this determination (i.e., any alternatives considered and any supporting research, experience or educational theory).

LCAP development

With regards to the LCAP, the regulations not only present a template for the LCAP but define what it means to “consult” with students on plan development. Education Code 52060 and 52066 require consultation with students (as well as teachers, principals, administrators, other school personnel, employee bargaining units and parents/guardians) but do not specify a timeline or method for this consultation. According to the new regulations, the process of enabling students, including unduplicated students and other numerically significant student subgroups, to review and comment on LCAP development may include student surveys, forums with students, student advisory committees or meetings with student government bodies or other groups representing students.

It is likely that the LCAP process will continue to evolve and additional clarifications will be provided. CSBA’s CEO and Executive Director Vernon M. Billy noted, “As governance teams and stakeholders gain experience with the LCAP process, CSBA looks forward to future refinements in the template, including the online template and greater alignment between other required documents, such as the School Accountability Report Cards and LEA plans” (*California School News* web-only article, November 18, 2014, <http://bit.ly/1xFVbO5>).

Update on state assessment system

The transition of the statewide student assessment system to the California Assessment of Student Performance and Progress (CAASPP) is progressing, and CSBA has updated AR 6162.51 - State Academic Achievement Tests to reflect recent changes.

Smarter Balanced assessments

Following a year of field testing the Smarter Balanced assessments for English language arts and mathematics, the SBE has determined that full implementation can proceed for the 2014-15 school year. At its November meeting, the SBE approved the administration of the technology-enabled assessments in spring 2015 for grades 3-8 and 11. Schools that lack the necessary broadband connectivity for online testing or are not able to administer the braille version online will be allowed to administer paper-pencil assessments and are encouraged to develop a plan to overcome these barriers by the 2016-17 school year.

Science assessments

The California Standards Test for science will be administered to students in grades 5, 8 and 10 in 2014-15. However, efforts continue towards developing a science assessment that is aligned with the Next Generation Science Standards (NGSS) adopted by the SBE in 2013. According to the CDE’s NGSS Frequently Asked Questions (www.cde.ca.gov/pd/ca/sc/ngssfaq.asp#e24), a new assessment aligned to the NGSS is expected to be fully implemented in the 2016-17 school year.

Alternative assessments for students with disabilities

Students with disabilities must be included in the state assessment program with accommodations where necessary, unless they are exempted by their parents/guardians or are eligible to take an alternate assessment. Alternative tests have included the California Modified Assessment (CMA) or, for students with significant cognitive disabilities, the California Alternate Performance Assessment (CAPA).



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Beginning in the 2014-15 school year, the CAPA for English language arts and mathematics has been suspended. In spring 2015, a field test will be conducted for a new alternative assessment designated as the California Alternate Assessment. The field test will not produce individual student or school-level results.

For the science assessment, students with disabilities are required to take the CAPA or the CMA, in accordance with their individualized education program, until there is a successor assessment aligned to the NGSS.

Primary language assessment

In addition to the state achievement tests, English learners may be administered a primary language assessment. SB 858 (Ch. 32) provides that districts may use the Standards-Based Test in Spanish (STS) for this purpose until a test that is aligned with the Common Core State Standards in English language arts is available. The SBE is required to adopt such an assessment to be used no later than the 2016-17 school year.

The transition to the development of the English Language Proficiency Assessments for California (ELPAC) has begun. The ELPAC will be aligned with the 2012 English language development standards, will transition to computer-based testing, and will include separate tests for the initial identification and annual summative purposes.

Grade 2 diagnostic assessments

With the switch to the new assessment system, students in grade 2 are no longer required to be tested. However, state law requires the CDE to gather and share information about available diagnostic assessments that districts, at their own expense, may use to assess the developing mathematics and English language arts skills of their second graders. The CDE recently posted lists of diagnostic assessments that meet the requirements of state law at <http://bit.ly/1Dm3Qsl>. These tables also indicate the extent to which each assessment is aligned with Common Core State Standards.

CSBA education opportunities

Brown Act workshop

To help board members and superintendents understand the complex requirements of the Brown Act and learn how to apply the law, CSBA presents a fact-filled evening workshop (5:30-8:30 p.m.) that addresses:

- » agenda development, posting, distribution, contents and restrictions
- » board meeting requirements, including open meeting laws, Education Code requirements and local board bylaws
- » when and when not to have closed sessions and who decides

Register online at www.csba.org/TrainingAndEvents/TrainingWorkshops/TheBrownAct. Upcoming workshops include:

- March 6: Fresno
- March 13: San Diego

The San Diego Brown Act workshop is offered in combination with the next-day Board Presidents workshop for a discounted price.



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For additional information about the Brown Act and open meeting laws, view the archived Education Insights: Legal Update Webcast (Episode 2) at www.csba.org/EdInsights.

Training for executive assistants

CSBA offers professional development designed to help executive assistants enhance their performance to meet the needs of the superintendent, board, students and community. The one-day workshop (9:00 a.m. - 3:00 p.m.) includes sessions on Tools and Techniques for Productive Board Meetings, The Latest in Governance Technology, Super App: Increasing Productivity One App at a Time, and Brown Act: The Basics and Beyond. Networking opportunities will also be provided to allow executive assistants to learn from each other.

Workshops are scheduled on the following dates:

April 21: Rancho Cucamonga

April 28: Mather

May 4: San Jose

The \$145 registration fee includes materials, morning refreshments and lunch. For further information and to register, go to <http://bit.ly/1DylNRV>.

New resources from CSBA

2014 Policies in Review

CSBA's Member Services Department annually 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. *2014 Policies in Review* is expected to be available soon and will be posted at www.csba.org/PNB.

This report describes critical policy issues related to curriculum and instruction, student assessment, student health and wellness, student discipline, the LCFF and LCAP, nondiscrimination, personnel, facilities and more.

Appendices provide a description of the policy services offered by CSBA, as well as complete lists of publications, leadership development opportunities, and sample policies, administrative regulations and board bylaws issued in 2014.

Guide to complaint procedures

Districts are required by law to adopt uniform complaint procedures to address allegations of discrimination, discriminatory bullying, improper charging of student fees, violations of state and federal laws governing educational programs, noncompliance with LCAP requirements, and retaliation against a complainant. In addition, law mandates the adoption of Williams uniform complaint procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. Other complaints are addressed by locally developed procedures or are referred to other agencies.

To help districts navigate the various complaint procedures, CSBA has developed a reference guide which includes a chart listing the type of complaint, persons who may file, the complaint procedure that should be used, and related CSBA sample policies and administrative regulations. Districts should consult the referenced CSBA samples for information about notifications, timelines, appeal processes and other requirements related to each type of complaint.



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CSBA's *Guide to Complaint Procedures* is available at www.csba.org/PNB.

Districts are also reminded to review the special edition of CSBA sample policies and administrative regulations issued in October 2014 which included updates of BP/AR 1312.3 - Uniform Complaint Procedures, BP 5131.2 - Bullying, BP/AR 5145.3 - Nondiscrimination/Harassment and BP/AR 5145.7 - Sexual Harassment. These revised samples reflect the product of extensive consultations between CSBA staff and the staff of the CDE and the U.S. Department of Education's Office for Civil Rights (OCR). As revised, the samples go beyond minimum legal requirements and contain valuable policy guidance designed to address essential compliance review and complaint investigation requirements specified by CDE and OCR. While CDE and OCR did not officially approve these samples, CSBA believes that the additional details provided could be helpful if a CDE compliance review or a CDE or OCR investigation should occur.

Governance brief on teacher collaboration

CSBA resources related to closing the achievement gap include a new governance brief which encourages the establishment of successful "professional learning communities." As described in *Improving Student Achievement Through Teacher Collaboration* (November 2014), professional learning communities promote collegial dialogue as a means of improving teacher practice and student learning.

Research has identified best practices in professional learning communities that will likely lead to increases in student learning, including practices related to:

- » centering teacher discussions on student data (e.g., observations, work samples, test scores)
- » creating trusting environments that encourage open dialogue
- » allocating adequate time for frequent meetings so teachers can respond to data and address students' immediate learning needs
- » fully engaging all teachers in the process
- » focusing leadership efforts on supporting implementation and aligning professional learning communities with other district and school site initiatives

The governance brief provides information about these best practices, discusses implications for districts and presents questions for school boards to consider. The governance brief is available at www.csba.org/GovernanceAndPolicyResources.



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