

Policy News

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New legislation impacts policies

In 2015, Gov. Jerry Brown signed approximately 800 bills into law, over 100 of which may have some impact on K-12 education. Based on its review of those bills, CSBA has updated many sample board policies and administrative regulations to reflect new legal requirements. Other samples will be updated in March 2016. Some of the major issues affecting district and county office of education policies and regulations are described below.

Suspension of California High School Exit Examination

After signing Senate Bill 725 (Ch. 225) to exempt all current students in grade 12 from having to pass the California High School Exit Examination as a condition of graduating in the 2014-15 school year, Gov. Brown signed SB 172 (Ch. 572) to suspend the administration of the exit exam through the 2017-18 school year. Furthermore, SB 172 requires the board of a school district, COE or charter school to grant a diploma to any student who completed grade 12 in 2003-04 or later and met all graduation requirements other than passing the exit exam.

An independent evaluation conducted by Human Resources Research Organization in 2014 found that student performance on the exam was improving. Among all students in the class of 2014, including students who had taken the exam more than once, 91.8% had passed both the English language arts and mathematics tests by the end of their senior year. In fact, males and females, all racial/ethnic groups and economically disadvantaged students had passing rates above 90%. However, the passing rates remained lower for English learners (80.6%) and students with disabilities who took the exam (56.5%). For additional evaluation results, see <http://bit.ly/1IZIoDC>.

One concern with the exit exam was that it was aligned to English language arts and mathematics standards adopted by the State Board of Education in 1997 and had not been updated to reflect the Common Core State Standards adopted by the SBE in 2010. The new law does not prescribe that the exam be updated or replaced, but rather requires the state superintendent of public instruction to convene an advisory panel to provide recommendations as to whether a high school exit exam should be continued and alternative pathways to satisfy high school graduation requirements. These recommendations will be issued by March 1, 2016.

Impact on CSBA sample policy: A Cautionary Notice has been added to BP/AR/E 6162.52 - High School Exit Examination to advise that the materials contain legal requirements that are currently suspended. CSBA will revise or delete these samples as necessary when the state takes further action regarding the exam. A district/COE may add a similar Cautionary Notice to its local policy to alert anyone reading it that the legal requirements stated in the policy are currently not in operation. In addition, CSBA deleted material related to the exit exam from BP 6146.1 - High School Graduation Requirements, BP 6177 - Summer Learning Programs and BP 6179 - Supplemental Instruction and updated BP 6146.1 to reflect the requirement to retroactively grant diplomas to students who met all graduation requirements other than passing the exit exam.



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Math placement

As reported in the October *Policy News*, the California Mathematics Placement Act of 2015 (SB 359, Ch. 508) mandates any district, COE or charter school serving students entering grade 9 that has not adopted a math placement policy prior to Jan. 1, 2016, to adopt a fair, objective and transparent policy on math placement by the beginning of the 2016-17 school year.

The law includes the Legislature's findings and declarations that a policy or practice of requiring students to repeat a math course in grade 9 that they successfully completed in grade 8 (i.e., "math misplacement") affects students' competitiveness for college admissions and also disproportionately impacts students of color. The stated intent of the law is to ensure "a fair process and chance of success for all pupils."

Local policy must be adopted in a regularly scheduled public meeting and must contain specified provisions, including, but not limited to:

- » Consideration of multiple objective academic measures, such as statewide math assessments, placement tests that are aligned to state-adopted content standards in mathematics, classroom assignment and grades, and report cards.
- » At least one placement checkpoint within the first month of the school year to ensure accurate placement and subsequent re-evaluation of individual student progress.
- » Clear and timely recourse for each student and his or her parent/guardian who questions the student's placement.
- » Annual examination of aggregate student placement data to ensure that students who are qualified to progress in math courses are not held back in a disproportionate manner on the basis of their race, ethnicity, gender or socio-economic background.
- » For non-unified school districts, the consistency of math placement policies between elementary and high school districts.

Impact on CSBA sample policy: BP 6152.1 - Placement in Mathematics Courses, issued in August 2015, anticipated the possible signing of SB 359 and addressed the bill's major requirements. The policy was updated in December to reflect the mandate for adoption of a policy and to make further clarifications. In addition, BP 6142.92 - Mathematics Instruction was updated to add language related to appropriate placement of students in math courses.

Sexual health and HIV prevention education

Prior to the passage of AB 329 (Ch. 398), districts/COEs were required to provide HIV prevention education in grades 7-12 and were permitted, but not required, to offer comprehensive sexual health education at those grade levels. If offered, sexual health education was required to be age appropriate, be medically accurate and objective, teach respect for committed relationships and marriage, encourage students to speak with their parents/guardians about human sexuality and meet other requirements.

Although it was voluntary, 96% of districts offer a program of sexual health education, according to the legislative bill analysis for AB 329. The vast majority (93%) teach sexual health education and HIV prevention education as one class. Therefore, the new mandate for an integrated program of sexual health education and HIV prevention education generally reflects current practice in California.

Districts/COEs do need to ensure that the instruction contains all the required components and meets other criteria as amended by AB 329. A 2011 study found problems regarding district compliance with specific requirements of the law. For example, only 58% of the districts in the study included information about approved contraceptive methods in their



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educational program, 55% included the success rates of different contraceptive methods and 25% discussed emergency contraception, even though these subjects are required.¹

Parental consent requirements related to HIV prevention education and sexual health education have caused some confusion. As amended by AB 329, Education Code 51938 clarifies that a “passive consent” or “opt out” process must be used for both HIV prevention education and sexual health education. Districts/COEs are required to notify parents/guardians of the opportunity to request that their child not receive the instruction, but students will receive the instruction unless their parent/guardian otherwise submits a written request. Parents/guardians cannot be required to give consent as a condition of their child receiving the instruction (i.e., “active consent”).

Impact on CSBA sample policy: BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction were updated in December to reflect new law.

District residency

Beginning Jan. 1, 2016, the criteria and processes for establishing district residency for purposes of student enrollment will undergo several changes. In part, these bills were proposed in response to a situation in which a district decided to revoke the enrollment of a second-grade student whose parent worked for five days a week within the district as a live-in nanny and then stayed with relatives outside the district on weekends. Assembly Member Susan Bonilla cited “questionable” investigatory techniques used by the private investigator who had been hired by the district.

SB 200 (Ch. 174) requires that a student be deemed to meet residency requirements if his or her parent/guardian is employed and lives with the student in the place of employment within the district’s boundaries for at least three days during the school week. It also continues the option to admit a student whose parent/guardian is employed within district boundaries for a minimum of 10 hours during the school week (“Allen Bill transfers”), although this option will become inoperative on July 1, 2017. The same amendments were incorporated into AB 224 (Ch. 554).

AB 1101 (Ch. 170) mandates that the board adopt a policy with specified components before the district engages in an investigation to verify a student’s residency. The policy must identify the circumstances under which the district may initiate an investigation, describe the investigatory methods that may be used, state whether the district might use the services of a private investigator, prohibit surreptitious photographing or video recording of students who are being investigated, require the investigator to truthfully identify himself/herself as an investigator, and provide for an appeals process.

Impact on CSBA sample policy: BP 5111.1 - District Residency was added and AR 5111.1 was updated in December to reflect new law.

Courses with no educational content

Beginning in the 2016-17 school year, AB 1012 (Ch. 703) prohibits districts from assigning a student enrolled in grades 9-12 to any “course period without educational content” for more than one week in any semester. A “course period without educational content” is defined as a course period during which:

- » The student is sent home or released from campus before the end of the school day.
- » The student is assigned to a service, instructional work experience or other course during which he or she assists a certificated employee who is teaching during that period, if the student is not expected to complete curricular assignments.
- » The student is not assigned to any course for the relevant course period.



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The law specifically prohibits such assignments based on the lack of sufficient curricular course offerings for students to take during that period.

In addition, except under specified conditions, the law specifically prohibits assigning a student in grades 9-12 to a course that he or she has previously completed and in which he or she received a grade determined by the district to satisfy high school graduation requirements and college admission requirements.

A student may be assigned to a course with no educational content or to a course previously completed only if the student or parent/guardian has consented in writing to the assignment. Also, a school official must determine that the student will benefit from being assigned to the course period. The principal or assistant principal must state, in a written document maintained at the school, that all students assigned meet these criteria. The SBE is required to provide a form for this purpose.

Any complaint that a student has been assigned to a course in violation of this law may be addressed through the uniform complaint procedures specified in 5 CCR 4600-4687.

The law does not apply to alternative schools, community day schools, continuation schools, opportunity schools, dual enrollment in community college, evening high school programs, independent study, work-based learning or work experience education, and other courses authorized in Education Code 51700-51879.9 (e.g., community service class, correspondence course, driver training, etc.).

The SBE is directed to adopt regulations implementing this new law and to submit an annual report to the Legislature.

Impact on CSBA sample policy: CSBA is reviewing BP 6143 - Courses of Study and BP/AR 1312.3 - Uniform Complaint Procedures and will revise them as necessary to reflect new law.

Lactation accommodations for students

AB 302 (Ch. 690) requires any school with at least one lactating student to provide reasonable accommodations to address needs related to breastfeeding, such as access to a private and secure room (other than a restroom) to express breast milk or breastfeed an infant child, permission to bring onto a school campus any equipment used to express breast milk, access to a power source for that equipment, and access to a place to safely store expressed breast milk. In addition, the student must be given a reasonable amount of time to accommodate the need to express breast milk or breastfeed an infant child and cannot be penalized academically for her use of these accommodations.

The bill expresses the Legislature's findings that failure to provide such accommodations would violate state and federal laws prohibiting sex discrimination. Any complaint of noncompliance with the new law may be addressed through UCP.

For information about accommodations that must be provided to employees, see BP 4033 - Lactation Accommodations.

Impact on CSBA sample policy: CSBA is reviewing BP/AR 1312.3 - Uniform Complaint Procedures and BP 5146 - Married/Pregnant/Parenting Students and will revise them as necessary to reflect new law.

Uniform complaint procedures

Current law requires districts/COEs to use the UCP (5 CCR 4600-4687) for investigating and resolving complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation and bullying), a violation of state or federal laws and regulations governing



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educational programs, noncompliance with state law prohibiting the charging of student fees, or noncompliance with requirements related to the Local Control and Accountability Plan.

As noted above, new laws expand the use of UCP to include complaints related to courses with no educational content and lactation accommodations for students.

In addition, AB 379 (Ch. 772) now authorizes the use of UCP for complaints of noncompliance with specified requirements related to the educational rights of foster youth. These include, but are not limited to, provisions related to proper educational placement, immediate enrollment, transfer of credits and grades between schools or districts, exemption from locally established high school graduation requirements, and disciplinary proceedings.

Furthermore, AB 1391 (Ch. 706) provides that UCP will be used to resolve complaints of noncompliance with state law regarding instructional minutes of physical education. State law requires the adopted course of study for grades 1-6 to include instruction in physical education for at least 200 minutes each 10 school days, exclusive of recesses and the lunch period. Students in grades 7-12 are required to attend courses of physical education for at least 400 minutes every 10 school days, unless they are excused or exempted as allowed by law. An elementary school district maintaining grades 1-8 may apply the standard for grades 1-6 to grades 7-8 as well.

The health and educational benefits of physical activity are well-documented. However, CSBA's 2014 fact sheet *Physical Education: A Slow Start to a Promising Educational Boost* cites research indicating that 82% of California's elementary students are not receiving the required instructional minutes of physical education per day and that schools serving primarily low-income students tend to offer less physical education than other schools (www.csba.org/PE.)

In the wake of litigation against dozens of school districts alleging noncompliance, CSBA co-sponsored AB 1391 to provide a reasonable process for resolving complaints by students, parents/guardians or others. See CSBA's Legal Alert, *Districts at Risk from Lawsuits Regarding PE Instructional Minute Requirement* (May 2015), for more information regarding legal actions that have been filed and actions that districts/COEs can take to protect themselves against litigation (www.csba.org/legalresources).

Impact on CSBA sample policy: AR 6173.1 - Education for Foster Youth was updated in December. CSBA is reviewing BP/AR 1312.3 - Uniform Complaint Procedures and expects to work with the CDE to revise these materials as necessary. CSBA is also reviewing BP 5146 - Married/Pregnant/Parenting Students, AR 6142.7 - Physical Education and Activity and BP/AR 6143 - Courses of Study.

Framework for new accountability system progresses

At its November meeting, the SBE continued discussions about the development of a new, coherent accountability system aligned with the Local Control Funding Formula and the eight state priorities that are specified in Education Code 52060 and 52066 and are the basis for goals established by each district/COE for its LCAP. A draft framework and implementation plan outline actions and tasks that will be completed in the transition to the new system.

"The Board remains focused on shifting from an outdated accountability system based solely on test scores to a new system that includes additional state and local measures to assess progress. This will allow us to focus on a broader set of outcomes than in the past," stated SBE President Michael W. Kirst. "The API based solely on test scores is behind us, and we are in the middle of developing the remaining pieces of our accountability system based on the eight statutory priorities established by the Legislature and the Governor in 2013."



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Kirst noted that the state is on track to meet the July 2016 adoption of evaluation rubrics that will assist districts/COEs in evaluating their strengths, weaknesses and areas that need improvement. Examples of other actions outlined in the implementation plan include identification of obsolete references to the API that need to be deleted in law, determination of status and growth measures, improved alignment of the school accountability report card and single plan for student achievement with state priorities, and establishment of a network of educational agencies to provide relevant and timely information about accountability.

To watch the archived broadcast of this discussion, go to <http://bit.ly/1fIF5MI> (November 5, item 11).

Education opportunities

Institute for New and First-Term Board Members

The two-day Institute for New and First-Term Board Members provides an opportunity for new board members to learn about their unique roles and responsibilities. Participants explore the board's role in four major areas of board responsibility and authority and learn how to apply these processes on their board. Topics include:

- » **Effective governance:** The role and critical aspects of school board governance, the attributes of a highly effective governance team, and what every board member needs to know about the district.
- » **Finance:** Methods for setting budget priorities that reflect the goals of the district, tools for adopting and monitoring the district budget, and the effect of collective bargaining decisions on the district budget.
- » **Student learning:** The relationship among district goals, budget, personnel policies, curriculum standards, assessment and student performance, and what the board can do to ensure appropriate processes for curriculum development review and adoption.
- » **Human resources:** How, when and where the board can impact personnel decisions, ways to create and maintain a positive, supportive personnel climate, and how to establish prudent guidelines and policies for contract negotiations.

Taught by governance consultants from CSBA and School Services of California, Inc., the Institute will be held from 8:30 a.m. to 4:30 p.m. at the following locations:

- » January 29-30: Sacramento, Sacramento Convention Center
- » February 26-27: Pasadena, The Westin Pasadena
- » March 4-5: Anaheim, Sheraton Park Hotel at the Anaheim Resort
- » March 11-12: Burlingame, Hilton San Francisco Airport Bayfront
- » April 1-2: Redding, Red Lion Hotel

The registration fee is \$325 for early registration or \$335 for on-site registration. The fee will be waived for superintendents who attend with their new board member(s).

For more information or to register, go to www.csba.org/TrainingAndEvents.



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The Brown Act workshop

Every board member needs to know about the Brown Act. Participants in this fact-filled workshop will increase their understanding of the intricacies and complexities of the Brown Act and learn how to apply the law. The program includes information about the development and distribution of the board agenda, open meeting laws and circumstances under which closed sessions are allowed or not allowed.

The three-hour workshop will be held on Friday evenings, from 5:30 to 8:30 p.m., at the following locations:

- » January 29: Sacramento, Sacramento Convention Center
- » March 4: Anaheim, Sheraton Park Hotel at the Anaheim Resort
- » March 11: Burlingame, Hilton San Francisco Airport Bayfront

The registration fee is \$185 for early registration and \$195 for on-site registration. Participants who register to attend the Board Presidents Workshop during the same weekend will save \$50 on the total registration fee.

See www.csba.org/TrainingAndEvents for more information and online registration.

Board Presidents Workshop

CSBA's Board Presidents Workshop prepares current and aspiring board presidents to provide leadership and strategic vision, forge effective governance teams, conduct meaningful meetings and focus efforts on improved student learning and achievement.

This all-day workshop (8:30 a.m. to 4:00 p.m.) is scheduled at the following locations:

- » January 30: Sacramento, Sacramento Convention Center
- » March 5: Anaheim, Sheraton Park Hotel at the Anaheim Resort
- » March 12: Burlingame, Hilton San Francisco Airport Bayfront

The registration fee (\$225 for early registration, \$235 for on-site registration) includes materials, morning refreshments and lunch. A discounted rate is offered for participants who register to attend the Board Presidents Workshop and Brown Act workshop in the same weekend of January or March.

For more information or to register, go to www.csba.org/TrainingAndEvents.

Deep Dive Seminar Series: Data Demystified

As public education leaders better align district/COE goals and prioritize funding to improve upon their LCAPs, the need for meaningful data has never been more important. Many board members, however, struggle with understanding the context of data and how to use it to improve academic and social success. Data Demystified, the Winter 2016 focus of the Deep Dive Seminar Series, is designed to help district leaders better understand the data they need to direct resources and services to those students most in need.

Presenters include Carrie Hahnel, Deputy Director, Research, Policy Analysis, and Practice, Ed Trust West and Peggy Wozniak, Ed.D., Adjunct Faculty, University of Nevada Reno, and Masters in Governance Faculty, CSBA.

The three-hour workshop (5:30-8:30 p.m.) is scheduled at the following locations:

- » January 28: Sacramento, Sacramento Grand Hotel
- » March 3: Anaheim, Sheraton Park Hotel at the Anaheim Resort

The registration fee is \$185 (\$195 for on-site registration). Register online at www.csba.org/GovernanceU or call (800) 266-3382.



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New resources from CSBA

Guidebook for effective board meetings

An updated edition of CSBA's best-selling book *Call to Order: A Blueprint for Great Board Meetings* was released at CSBA's Annual Education Conference and Trade Show in early December and will be available for purchase through CSBA's online bookstore in January 2016. This second edition of the book includes three important changes:

- » **The structure of meetings.** Boards can make a wide range of decisions and agreements that influence the conduct and effectiveness of board meetings and other governance operations. The book has been redesigned to address important considerations for boards that include the adoption of board bylaws regarding meetings; creation of board values, norms and protocols for governance; the process for selecting a board president; the purpose and structure of committees; and the development of a governance calendar to set the agenda for all meetings throughout the year.
- » **Parliamentary procedures tailored for boards.** Agreeing on the procedural requirements for board meetings is one of the fundamental ways that boards can improve the quality and efficiency of their meetings. With the assistance of a registered professional parliamentarian, CSBA has developed a sample set of parliamentary procedures tailored to school board needs.
- » **Improved differentiation for county boards.** Many laws governing county boards of education differ from those that govern school district boards. The second edition of *Call to Order* includes expanded references to California codes as well as CSBA sample board bylaws and points out where they differ for county boards.

To purchase copies through the online bookstore, visit www.csba.org/store.

New edition of charter school manual

Since *Charter Schools: A Manual for Governance Teams* was published in 2012, significant changes to California's school funding, accountability and assessment system have impacted all public schools, including charter schools. Thus, the manual is being updated to reflect new legislation, legal cases and CSBA recommendations that impact how governance teams provide effective oversight to charter schools. The publication covers different aspects of charter school oversight, including the petition and review process, facilities responsibilities, renewal and revocation.

Copies are expected to be available by February 2016 through CSBA's online bookstore: www.csba.org/store.

Endnotes

- 1 *Uneven Progress: Sex Education in California Public Schools*, University of California San Francisco, available at <http://healthpolicy.ucsf.edu>.



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