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New legislation impacts K-12 education

As the 2011-12 legislative session came to a close at the end of September, Gov. Jerry Brown had signed 137 bills that impact K-12 education. Most of those will become effective on Jan. 1, 2013.

CSBA has been reviewing the new legislation and has begun to revise sample policies and administrative regulations to reflect changes in legal requirements. Outlined below are a few of the major issues affecting school districts and county offices of education (COEs).

Uniform complaint procedures for student fees and bullying

The district's uniform complaint procedures need to be updated to apply the procedures to two additional circumstances:

1. **Student fees.** Issues related to student fees have been closely monitored by CSBA since 2010 when the American Civil Liberties Union filed litigation against the state of California alleging that districts were charging impermissible fees for students' participation in educational activities. Court decisions and Attorney General opinions have interpreted the "free school" guarantee in the California Constitution to extend to all activities which constitute an integral part of a student's education, including extracurricular activities, drama productions, vocal music groups, instrumental groups, cheerleading, elective classes and necessary school supplies such as band uniforms. Thus, student fees can be charged only when specifically authorized by law.

New legislation (AB 1575, Ch. 776) codifies these rulings and opinions into law. In addition, it authorizes complaints about student fees to be filed under the uniform complaint procedures. It does not go as far as the legislation vetoed by Gov. Brown in 2011 which would have mandated a detailed notice in every classroom and specific complaint, hearing and audit procedures even when there have been no complaints and no evidence of any violation.

2. **Alleged incidents of discrimination, harassment, intimidation and bullying of students.** Following the signing into law of AB 9 (Ch. 728) in 2011, much debate has centered around the question of whether or not uniform complaint procedures must be used to investigate alleged incidents of discrimination, harassment, intimidation and bullying. California Department of Education (CDE) legal counsel's correspondence sent to district and county superintendents in September states the CDE's opinion that such complaints should be addressed through uniform complaint procedures and indicates the CDE's intention to monitor districts/COEs through the Federal Program Monitoring process to ensure compliance. Thus, in order to remain compliant for purposes of the Federal Program Monitoring process, CSBA is working with CDE to update BP/AR 1312.3 - Uniform Complaint Procedures by the end of January. CSBA will continue to review and revise other related policies as needed.

Policy Revision: BP/AR 3260 - Fees and Charges and BP/AR 1312.3 - Uniform Complaint Procedures



Suspension/expulsion

Issues related to student discipline received much attention this year in studies, news articles and the legislative session. Two prominent goals were to reduce disparities in suspension/expulsion rates across different student populations and to keep students in school as much as possible in order to maximize learning.

As reported in the March 2012 *Policy News*, a national study found that race/ethnicity, gender and disability are factors influencing suspension/expulsion rates, with African Americans, males and disabled students having significantly higher rates of suspensions and expulsions (U.S. Department of Education, Office of Civil Rights, Civil Rights Data Collection Summary, March 2012, <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>). Similar findings were documented in California, as reported in the legislative findings in AB 1729 (Ch. 425). For instance, the Legislature found that in 2006, the suspension rate for African American students in the state was more than double the rate for white, Hispanic or Asian students even though there is no evidence that they or any student populations misbehave at greater rates than their peers.

In AB 1729, the Legislature cited research showing that nonpunitive classroom discipline and in-school discipline strategies are more effective than suspension and expulsion for addressing the majority of student misconduct. It declared that the public policy guiding the development of discipline policies for California schools should be for the creation of safe, positive, supportive and equitable school environments which enable students to learn and should not be unnecessarily exclusionary. The legislation authorizes and encourages the use of age-appropriate alternatives to suspension and expulsion and provides alternative means of correction that should be used before students are suspended or expelled.

Such alternative methods include, but are not limited to, conferences with the student and his/her parents/guardians, referral to the school counselor or other support services personnel, use of study teams, referral for a comprehensive psychosocial or psychoeducational assessment, enrollment in a program for teaching prosocial behavior or anger management, participation in a restorative justice program, a positive behavior support approach with tiered interventions on campus during the school day, after-school programs that address specific behavior issues or expose students to positive activities and behaviors, or community service.

Other new legislation gives flexibility in expulsions for certain drug-related “zero tolerance” offenses and deletes imitation firearms from the list of mandated expulsions (AB 2537), prohibits denial of readmission based solely on a student’s contact with the juvenile justice system (SB 1088), and requires the educational liaison for a foster youth to notify the foster youth’s attorney and the county child welfare representative when a foster youth is undergoing certain disciplinary proceedings, including expulsion (AB 1909).

For further information about suspension/expulsion and alternative disciplinary strategies, see the Winter 2012 edition of CSBA’s *California Schools* magazine (“Out of Sight, Out of Mind?”) and CSBA’s guidebook *Safe Schools: Strategies for Governing Boards to Ensure Student Success*.

Policy Revision: BP/AR 5144 - Discipline and BP/AR 5144.1 - Suspension and Expulsion/Due Process

Truancy

According to state law, a student will be classified as “truant,” “habitual truant” or “chronic truant” based on the number of times he/she is absent during the school year without a valid excuse. The number of truancies is then linked to a progressive set of consequences ranging from parent/guardian notification to referral to a school attendance review board to notification of a probation officer or district attorney.

For purposes of classifying a student as a truant, new law (AB 2616, Ch. 432) defines “valid excuse” as an absence for any of the reasons specified in Education Code 48205 (illness, quarantine, medical appointment, funeral of immediate family member, jury duty, illness of his/her child, justifiable personal reasons, service on precinct board, time spent with immediate family

member in military as specified) or Education Code 48225.5 (work permit) or other reasons at the discretion of school administrators.

AB 2616 also revises the consequences associated with truancy. A new strategy is added for addressing a student's initial classification as a truant, whereby the student and parent/guardian may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the student's attendance. Furthermore, a written warning by a peace officer was eliminated from the list of responses to initial truancy and instead is listed as a possible response to a second truancy report. Finally, in the event of a fourth truancy report, AB 2616 permits but does not require the district to refer the student to a juvenile court and lowers the maximum amount of the fine (from \$100 to \$50) that the court may require when a student is adjudged a ward of the court.

These new provisions are consistent with the goal of AB 1729, as discussed above, to reduce punitive disciplinary measures and focus instead on alternative consequences that keep a student in school. The sponsor of AB 2616, Public Counsel Law Center, notes that "there are situations where a school could find that sending the child into the juvenile justice system would not be of benefit to the child, particularly given the research showing that children with juvenile court involvement are as much as four times more likely to drop out of school. Generally, . . . rather than serving as a 'wake-up call,' aggressive criminal justice centered policies in and around schools are more likely to cause students to feel alienated from the educational system, causing further disengagement" (cited in Assembly Bill Analysis).

Policy Revision: BP/AR 5113.1 - Chronic Absence and Truancy

Instructional materials aligned with Common Core State Standards

Districts are expected to implement Common Core State Standards in English-language arts and mathematics beginning in the 2014-15 school year, but K-8 instructional materials adoptions by the State Board of Education (SBE) were suspended until the 2015-16 school year, posing a challenge for districts in preparing for the significant changes in instruction that will be needed to help students achieve the new standards. Recognizing this problem, the SBE and Legislature have taken several actions to help bridge the gap.

AB 1246 (Ch. 688) added an exception to the suspension of SBE adoptions of instructional materials, authorizing the SBE to adopt K-8 instructional materials in mathematics by March 30, 2014.

In addition, AB 1246 gives districts the flexibility to adopt K-8 instructional materials that have not been adopted by the SBE provided that the materials are aligned with state content standards or Common Core State Standards. In order to adopt materials that have not been selected by the SBE, the materials must be reviewed through a process in which a majority of the participants are classroom teachers assigned to the subject area or grade level for which the materials will be used.

AB 1719 (Ch. 636), along with legislation passed last year (SB 140, Ch. 623, 2011), require the CDE to recommend and the SBE to approve lists of supplementary instructional materials aligned with the Common Core State Standards. Lists will be available on the CDE's website for English-language arts, mathematics and the English language development standards adopted by the SBE in November 2012. The lists of supplementary materials are informational only; districts are not required to purchase any of the supplementary materials.

For further information about implementation of the Common Core State Standards, see CSBA's series of policy briefs *Governing to the Core* at www.csba.org/pab.aspx.

Policy Revision: BP/AR/E 6161.1 - Selection and Evaluation of Instructional Materials, BP 6161.11 - Supplementary Instructional Materials and BP 6174 - Education for English Language Learners

English learners

After a recent report by Californians Together called attention to the large number of students who continue to be classified as English learners despite their many years in U.S. schools, AB





2193 (Ch. 427) was signed which establishes uniform definitions of “long-term English learner” and “English learner at risk of becoming a long-term English learner” and requires the CDE to annually determine the number of such students in each district and school. The new law does not require districts to create a specific program to address the academic deficits of long-term or at-risk English learners, but rather seeks to raise awareness of the issue by requiring identification of such students as a first step.

The reclassification criteria and policies used by districts will be studied by the CDE pursuant to SB 1108 (Ch. 434) based on a sampling of districts. The CDE is required to recommend any changes by January 2014.

Boards are encouraged to regularly evaluate the effectiveness of the educational program for English learners, including the progress of English learners toward English proficiency as well as their achievement in core academic subjects.

Policy Revision: BP/AR/E 6174 - Education for English Language Learners

Charter schools

SB 1290 (Ch. 576) impacts policies related to charter school authorization, renewal and revocation. The legislation adds a requirement that the charter school petition include a description of measurable student outcomes both school-wide and for all groups of students served by the charter school. SB 1290 also requires the board to consider increases in student achievement for all groups of students served by the charter school as the most important factor in determining whether to renew or revoke a charter.

For these purposes, “all groups of students served by the charter school” include all numerically significant subgroups as defined in Education Code 52052(a)(3). In accordance with that code section, a numerically significant subgroup consists of at least 50 students with valid test scores and constitutes at least 15 percent of the total population of students at a school who have valid test scores. If the subgroup does not constitute 15 percent of the total population of the school, the group may be a numerically significant subgroup if it has at least 100 valid test scores.

By requiring decisions about charter schools to be based on increases in academic achievement for all numerically significant subgroups, SB 1290 aligns state law with the federal Public Charter Schools Grant Program. The CDE had received formal notice from the U.S. Department of Education in August 2011 that the state was out of compliance with the required program assurances because there was no explicit statutory or regulatory requirement that charter schools demonstrate improved student achievement.

Districts should also be aware of legislation signed by the Governor in June which affects charter school facilities. Under SB 1016 (Ch. 38), when districts want to sell or lease any surplus real property designed to provide direct instruction or instructional support, they must first provide a written offer for the sale or lease of the property to any charter school that has submitted a written request to be notified. CSBA has determined that it is unnecessary to revise sample BP 3280 - Sale or Lease of District-Owned Real Property at this time because that sample policy currently does not provide details regarding existing priorities; rather, it refers to the legal citations that contain this information. Furthermore, the provisions of SB 1016 apply only to real property identified as surplus property after July 1, 2012 and will become inoperative on June 30, 2013.

Policy Revision: AR 0420.4 - Charter School Authorization, BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation

CSBA receives grant to support work on summer learning and summer wellness

Studies have shown that learning loss over the summer vacation can be extensive, especially for children from low-income families who might not have access to educational resources during the summer months and for low-achieving students who need additional time to master academic content (Rand Corporation, *Making Summer Count*, 2011). However, academic and other outcomes can be improved through high-quality summer programs.

With support from a \$50,000 grant from the David and Lucile Packard Foundation, CSBA has begun activities designed to:

- Raise the awareness of governance teams on how districts can make summer part of the continuous learning cycle for students
- Raise the awareness of governance teams on how districts can improve the health and well-being of students by including after-school and summer nutrition and physical activities in their school wellness goals, practices and policies
- Positively impact the learning environments of California's students by promoting and supporting policy development, implementation and monitoring/accountability around issues of student health, obesity prevention and the opportunities afforded in the after-school and summer setting

Together with the Partnership for Children and Youth, a California nonprofit organization dedicated to ensuring that children in low-income communities have the opportunities they need to be successful, CSBA surveyed board members across the state about summer programs in their districts. More than 60 percent of the districts that responded to the survey are providing some type of summer school despite tight budgets. There is, however, much work to be done. The vast majority of summer programs being offered are remediation programs and only about 40 percent of the responding districts are providing programming for a substantial portion of the summer (four or more weeks). Funding is reported to be a major barrier to implementing a summer learning program.

Other proposed activities include development of a policy brief on the topic of summer learning and summer wellness, review and updating of CSBA sample policies, articles on summer program planning and resources, presentations in various workshops and conferences, and in-district governance support (e.g., study sessions, policy development and monitoring assistance) to one or two school districts. Districts interested in learning more may contact Martin Gonzalez, assistant executive director, Member Services, at mgonzalez@csba.org.

California Department of Education conducts outreach on new lunch requirements

The CDE's Nutrition Services Division (NSD) is conducting a variety of outreach activities to ensure district/COE compliance with the new federal standards for the National School Lunch Program, which became effective July 1, 2012. The NSD has provided information through CDE Management Bulletins, regular listserv emails, outreach phone calls, Make It Right – Lunch Menu Planning Workshops, and Certification of Compliance trainings.

"Despite these outreach efforts, we are finding that some school food authorities aren't aware of the new requirements," said NSD Director Sandip Kaur. "Others believe they are exempt from certification either because they are small, they vend from another agency or they don't need the additional six cents reimbursement provided to agencies in compliance with the new standards. We need to ensure that accurate information about the new requirements is available to those who are charged with implementing California's school nutrition programs."





In correspondence dated Sept. 24, Superintendent of Public Instruction Tom Torlakson encouraged district and county superintendents to support implementation of the standards so that students, parents, teachers, administrators and other school staff will “embrace the changes aimed at providing students with the best nutrition possible.” He reports that the additional six-cent reimbursement per lunch served will provide as much as \$35 million annually for school meals statewide (www.cde.ca.gov/be/cc/cn/201210sixcentletter.asp).

As reported in the July *Policy News*, schools that do not participate in the National School Lunch Program must still comply with the federal standards because state law requires all schools to provide a “nutritionally adequate” meal—defined as one that meets federal nutrition program regulations—each school day to students who qualify for free and reduced-price meals. The federal regulations align meal patterns and nutrition standards for school meals with the Dietary Guidelines for Americans, as required by the Healthy, Hunger-Free Kids Act of 2010. New standards for the School Breakfast Program will go into effect beginning with the 2013-14 school year.

CSBA sample AR 3550 - Food Service/Child Nutrition Program was updated in July to reflect the changes in federal nutrition standards. Also see CSBA’s policy brief *Nutrition Standards for Schools: Implications for Student Wellness* at www.csba.org/pab.aspx.

For more information on the new meal pattern requirements, the certification of compliance process or NSD outreach activities, contact Grace Huppert, CDE nutrition education consultant, by email at ghuppert@cde.ca.gov or by phone at 916-322-1563. The U.S. Department of Agriculture has additional information on meal patterns and reimbursements at www.fns.usda.gov/cnd and other nutrition resources on its The School Day Just Got Healthier Toolkit website at www.fns.usda.gov/cnd/healthierschoolday/toolkit.htm.

New resources from CSBA

Student wellness guides

CSBA has updated two popular publications that help districts/COEs implement and assess their student wellness policies.

Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide reflects new information gained over the past six years on the impact of student health on academic achievement, as well as new best practices. The guide also contains CSBA’s most recent sample policies and policy briefs related to nutrition and physical activity.

The re-titled *Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies* provides information to help the board measure the implementation of its student wellness policy and evaluate progress toward achieving the goals in the policy. The guide has been updated and reorganized to reflect the required policy components as revised by the Healthy, Hunger-Free Kids Act of 2010. For each wellness goal, the guide references related law and/or CSBA sample policy language, suggests information that might be addressed in the assessment report, and lists possible data sources. The appendices provide data collection forms, a sample format for the implementation report and related CSBA sample policies.

In addition, both publications include a new focus on the alignment of all relevant district activities, including summer learning opportunities, before- and after-school programs, preschool and child care programs and any other district-sponsored programs.

Updating of these guidebooks was supported by grants from The California Endowment and the David and Lucile Packard Foundation.

Both publications may be downloaded at www.csba.org/wellness.aspx.

Charter school manual

CSBA's updated edition of *Charter Schools: A Manual for Governance Teams* was released at CSBA's 2012 Annual Education Conference and Trade Show and is now available for purchase through the CSBA Store (www.csba.org). The manual presents background information about charter schools in California and describes processes for petition review, provision of facilities, oversight, renewal and revocation. It also contains best practices related to the role of the board with respect to charter schools. The manual reflects current law as of November 2012.

It is recommended that governance teams reference this manual when reviewing and adopting policy governing charter school processes. Also see CSBA samples BP/AR 0420.4 - Charter School Authorization, BP/E 0420.41 - Charter School Oversight, BP 0420.42 - Charter School Renewal, BP 0420.43 - Charter School Revocation and BP/AR 7160 - Charter School Facilities. (See article "New legislation impacts K-12 education" above for information about new laws pertaining to charter schools.)

Policy brief on provision of drinking water

Federal law (42 USC 1758) requires any school participating in the National School Lunch Program to make free drinking water available for consumption at locations where meals are served during meal service. Schools that do not participate in the National School Lunch Program are still required under state law (Education Code 38086) to make free drinking water available during school meal times, unless the board adopts a resolution demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. These requirements are reflected in AR 3550 - Food Service/Child Nutrition Program.

To help districts/COEs implement these requirements, CSBA is preparing a policy brief that will soon be posted at www.csba.org/pab.aspx. The brief will provide background information, best practices and governance considerations.

CSBA leadership development opportunities

The Brown Act workshop

The intricacies of the Brown Act provide important yet often convoluted guidelines for board members, superintendents and executive assistants. "The Brown Act: What You Need to Know" is a fact-filled, interactive workshop presented by leading attorneys. Participants will increase their understanding of:

- The board agenda – development, posting, distribution, contents and restrictions
- The board meeting – open meeting laws, the Brown Act, Education Code requirements, board bylaws
- Closed sessions – when to have them, when not to have them and who gets to decide

All workshops are scheduled for 5:30-8:30 p.m. Upcoming workshops in early 2013 include:

January 25 – Sacramento
 February 1 – Millbrae
 February 8 – San Diego
 March 1 – Garden Grove
 March 8 – Petaluma
 March 15 – Redding

For further information or to register, go to www.csba.org/TrainingAndEvents.aspx. The early registration fee of \$145 includes materials and refreshments.





Board Presidents Workshop

Leading a board requires strong leadership, strategic vision and the ability to pull together members of a team. CSBA's "Board Presidents Workshop: Tools for Strategic Leadership" provides information to help prepare current and aspiring board presidents. This all-day workshop addresses the role of the board president, strategies to forge an effective team, tools for effective meetings, how to provide focused leadership, superintendent evaluations and more.

Upcoming workshops are scheduled for 8:30 a.m. – 4 p.m. on the following dates:

January 26 – Sacramento
March 2 – Garden Grove

Early registration is \$195 and includes materials, lunch and refreshments. However, persons may register for both this workshop and the Brown Act workshop the preceding day for a combined early registration fee of \$290.

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

Forecast Webcast

In CSBA's complimentary Forecast Webcast, CSBA Executive Director Vernon M. Billy will moderate a panel discussion of education and economic issues as impacted by the presidential election and key California propositions. Assistant Executive Director for Governmental Relations Dennis Meyers and his team will look ahead to the new legislative session, in which CSBA will be engaged in discussions of Gov. Jerry Brown's proposed weighted student funding formula. Christopher Thornberg, widely considered to be among the leading experts on California's economy, will also participate in the webcast.

The webcast will be held January 17, 10 a.m. - noon. Registration is required. Go to www.csba.org/TrainingAndEvents.aspx.



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