

CLASS SIZE

The Board of Trustees recognizes that smaller classes may contribute to student learning by allowing teachers to better identify and respond to individual student needs. In accordance with negotiated employee agreements and state law, the Board shall establish class size limits appropriate for each grade level or subject taught and conducive to the effective use of teaching staff.

(cf. 4141/4241 - Collective Bargaining Agreement)

The highest priority for maintaining small class sizes shall be in the primary grades in order to support young students as they acquire the basic skills that serve as the foundation for subsequent learning. Other priorities shall be established in accordance with the goals and strategies identified in the district's local control and accountability plan (LCAP).

(cf. 0200 - Goals for the School District)

(cf. 0460 - Local Control and Accountability Plan)

For grades K-3, the district shall annually make progress toward maintaining an average class of not more than 24 students, unless an alternative annual average class size for each school site is collectively bargained. (Education Code 42238.02; 5 CCR 15498-15498.3)

Transitional kindergarten classes established pursuant to Education Code 48000 shall be included in the calculation of average class enrollment for kindergarten.

(cf. 6170.1 - Transitional Kindergarten)

For students who require special education and related services, the ratio of instructional adults to students in group services shall be dependent on the needs of the students. However, for children ages 3-5 years who are placed in group services, the teacher-child ratio shall be less than 1:24 and the adult-child ratio shall be less than 1:8. For children ages 3-5 years who are identified as severely disabled, the ratio of instructional adults to children shall not exceed 1:5. (Education Code 8264.8, 56441.5)

(cf. 4112.23 - Special Education Staff)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - Graduation Requirements)

(cf. 6159 - Individualized Education Program)

The Superintendent or designee shall provide the Board with an analysis of staffing and school facilities needs and other costs related to class size reduction proposals.

(cf. 3100 - Budget)

(cf. 6117 - Year-Round Schedules)

(cf. 7111 - Evaluating Existing Buildings)

The Superintendent or designee shall annually report to the Board regarding the impact of the class size reduction program on student achievement and other outcomes such as changes in school climate and student engagement.

CLASS SIZE (continued)

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

Legal Reference:

EDUCATION CODE

17042 Rules for determining area of adequate school construction; exceptions

17042.7 Formula for calculation

33050 Nonwaivable provisions

35160 Authority of the board

42238.02 Local control funding formula, including adjustment for class size reduction

42280 Necessary small schools

46205 Computation for early-late programs

51225.3 Graduation requirements

52060-52077 Local control and accountability plan

GOVERNMENT CODE

3543.2 Scope of representation

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

CLASS ASSIGNMENT

The Board of Trustees believes students should be assigned to classes and/or grouped in a manner that provides the most effective learning environment for all students.

When assigning students to specific courses and classes, the principal or designee may consider the following criteria as appropriate for the grade level and course:

1. Staff recommendation, including, but not limited to, the recommendations of teachers and counselors
2. Skills and classroom management style of individual teachers
3. Student skill level as indicated by multiple objective academic measures, such as student assessment results, grade point average, and grades in prerequisite courses

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6152.1 - Placement in Mathematics Courses)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

4. Balance of high, medium, and low academic achievers
5. Student interests, readiness, behavior, and motivation
6. Student/teacher ratios and, if relevant, class size reduction considerations

(cf. 6151 - Class Size)

The principal or designee may accept from parents/guardians any information which would be helpful in making placement decisions. However, a parent/guardian who provides such information shall be informed that a request for a specific teacher shall be one of many factors which may be taken into account when determining his/her child's placement.

During the school year, the principal or designee may make any adjustments in class placement which he/she considers beneficial to the student or the educational program.

Legal Reference: (see next page)

CLASS ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE

35020 *Duties of employees fixed by Board of Trustees*

35160 *Authority of the board*

51224.7 *California Mathematics Placement Act of 2015*

51228.1 *Assignment to courses without educational content, grades 9-12*

51228.2 *Assignment to courses previously completed, grades 9-12*

51228.3 *Uniform complaint procedures; noncompliance with assignment limitations for grades 9-12*

CODE OF REGULATIONS, TITLE 5

4600-4687 *Uniform complaint procedures*

Management Resources:

WEB SITES

California Department of Education, Curriculum and Instruction: <http://www.cde.ca.gov/ci>

National Association for the Education of Young Children: <http://www.naeyc.org>

SCHOOL-SPONSORED TRIPS

The Board of Trustees recognizes that field trips supplement and enrich the classroom learning experience, lead to increased student achievement, and foster student engagement. The Board encourages field trips to reinforce and increase learning opportunities and to enhance district programs.

(cf. 0460 - Local Control and Accountability Plan)

Field trips shall be conducted in connection with the district's course of study or school-related social, educational, cultural, athletic, school band, or other extracurricular or cocurricular activities.

(cf. 6143 - Courses of Study)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

Requests for field trips involving out-of-state or overnight travel shall be submitted to the Superintendent or designee. The Superintendent or designee shall review the request and make a recommendation to the Board as to whether the request should be approved by the Board. All other field trips shall be approved in advance by the principal.

(cf. 3312.2 - Educational Travel Program Contracts)

The principal shall establish a process for approving a staff member's request to conduct a field trip. When planning trips, staff shall consider student safety, objectives of instruction, the most effective use of instructional time, the distance from school, district and student expense, and transportation and supervision requirements. Principals may exclude from the trip any student whose presence on the trip would pose a safety or disciplinary risk.

(cf. 3530 - Risk Management/Insurance)

(cf. 3541.1 - Transportation for School-Related Trips)

(cf. 5142 - Safety)

(cf. 5143 - Insurance)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

No field trip shall be authorized if any student would be excluded from participation because of a lack of sufficient funds. The Superintendent or designee shall coordinate with community groups to supply funds for students in need. (Education Code 35330)

(cf. 1230 - School-Connected Organizations)

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 1700 - Relations Between Private Industry and the Schools)

SCHOOL-SPONSORED TRIPS (continued)

The Board may approve the use of district funds for student expenses for in-state or out-of-state field trips or excursions when permitted by law. In addition, expenses of instructors, chaperones, and other personnel participating in such trips, as well as incidental expenses for the use of district equipment during the trip, may be paid from district funds. (Education Code 35330)

Legal Reference:

EDUCATION CODE

8760 *Authorization of outdoor science and conservation programs*

32040-32044 *First aid equipment: field trips*

35330 *Excursions and field trips*

35331 *Provision for medical or hospital service for pupils (on field trips)*

35332 *Transportation by chartered airline*

35350 *Transportation of students*

44808 *Liability when pupils not on school property*

48908 *Duties of pupils; authority of teachers*

BUSINESS AND PROFESSIONS CODE

17550-17550.9 *Sellers of travel*

17552-17556.5 *Educational travel organizations*

Management Resources:

WEB SITES

American Red Cross: <http://www.redcross.org>

California Association of Directors of Activities: <http://www.cada1.org>

U.S. Department of Homeland Security: <http://www.dhs.gov>

SCHOOL-SPONSORED TRIPS

Supervision

Students on school-sponsored trips are under the jurisdiction of the district and shall be subject to district and school rules and regulations.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

The Superintendent or designee shall ensure that adequate supervision is provided on all school-sponsored trips and that there is an appropriate ratio of adults to students present on the trip. If the trip involves water activities, this ratio shall be revised as necessary.

Parent/Guardian Permission

Before a student can participate in a school-sponsored trip, the teacher shall obtain parent/guardian permission for the trip. Whenever a trip involves water activities, the parent/guardian shall provide specific permission for his/her child to participate in the water activities. The district shall provide an alternative educational experience for students whose parents/guardians do not wish them to participate in a trip.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents/guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims. (Education Code 35330)

Safety Issues

1. While conducting a trip, the teacher, employee, or agent of the school shall have the school's first aid kit in his/her possession or immediately available. (Education Code 32041)

Whenever trips are conducted in areas known to be infested with poisonous snakes, the first aid kit taken on the trip shall contain medically accepted snakebite remedies. In addition, a teacher, employee, or agent of the school who has completed a first aid course which is certified by the American Red Cross and which emphasizes the treatment of snakebites shall participate in the trip. (Education Code 32043)

2. The district shall provide or make available medical and/or hospital insurance for students injured while participating in any excursion or field trip. (Education Code 35331)

(cf. 3541.1 - Transportation for School-Related Trips)

(cf. 5143 - Insurance)

SCHOOL-SPONSORED TRIPS (continued)

3. If the Superintendent or designee receives threat level warnings from the Homeland Security Advisory System pertaining to the destination of a school-sponsored trip, he/she shall implement precautions necessary to protect the safety of students and staff.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

4. Before trips of more than one day, the principal or designee may hold a meeting for staff, chaperones, parents/guardians, and students to discuss safety and the importance of safety-related rules for the trip.

(cf. 5142 - Safety)

HOMEWORK/MAKEUP WORK

The Board of Trustees recognizes that meaningful homework assignments can be a valuable extension of student learning time and assist students in developing good study habits. Homework shall be assigned when necessary to support classroom lessons, enable students to complete unfinished assignments, or review and apply academic content for better understanding.

The Superintendent or designee shall collaborate with school administrators and teachers to develop and regularly review guidelines for the assignment of homework and the related responsibilities of students, staff, and parents/guardians.

Homework assignments shall be reasonable in length and appropriate to the grade level and course. The Board expects that the number, frequency, and degree of difficulty of homework assignments will increase with the grade level and the maturity of students. Teachers shall assign homework only as necessary to fulfill academic goals and reinforce current instruction.

(cf. 6011 - Academic Standards)

As needed, teachers may receive training in designing relevant homework assignments that reinforce classroom learning objectives.

(cf. 4131 - Staff Development)

Although on-time completion of homework is important to maintain academic progress, the Board recognizes that students learn at different rates. Students shall receive credit for work that is completed late in order to encourage their continued learning.

Age-appropriate instruction may be given to help students allocate their time wisely, meet their deadlines, and develop good personal study habits.

At the beginning of the school year, teachers shall communicate homework expectations to students and their parents/guardians. Homework guidelines also shall be included in student and/or parent handbooks. These communications shall include the manner in which homework relates to achievement of academic standards and course content, the impact of homework assignments on students' grades, any school resources and programs that are available to provide homework support, and ways in which parents/guardians may appropriately assist their children.

Although it is the student's responsibility to undertake assignments independently, parents/guardians may serve as a resource and are encouraged to ensure that their child's homework assignments are completed. When a student repeatedly fails to complete his/her homework, the teacher shall notify the student's parents/guardians as soon as possible so that corrective action can be taken prior to the release of any final grades or report cards.

HOMEWORK/MAKEUP WORK (continued)

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

To further support students' homework efforts, the Superintendent or designee may establish and maintain telephone help lines, provide access to school library media centers and technological resources, and/or provide before-school and after-school programs where students can receive homework assistance from teachers, volunteers, and/or student tutors. The Board encourages the Superintendent or designee to design class and transportation schedules that will enable students to make use of homework support services.

(cf. 1240 - Volunteer Assistance)
(cf. 1700 - Relations between Private Industry and the Schools)
(cf. 3541 - Transportation Routes and Services)
(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 6112 - School Day)
(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6163.1 - Library Media Centers)

Teachers shall review all completed homework to assess the student's understanding of academic content and shall provide timely feedback to the student.

Makeup Work

Students who miss school work shall be given the opportunity to complete all assignments and tests that can be reasonably provided. As determined by the teacher, the assignments and tests shall be reasonably equivalent to, but not necessarily identical to, the assignments and tests missed during the absence. Students shall receive full credit for work satisfactorily completed within a reasonable period of time.

(cf. 5113 - Absences and Excuses)

The Superintendent or designee shall notify parents/guardians that no student may have his/her grade reduced or lose academic credit for any excused absence when missed assignments and tests are satisfactorily completed within a reasonable period of time. Such notification shall include the full text of Education Code 48205. (Education Code 48980)

(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 5145.6 - Parental Notifications)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the suspension. (Education Code 48913)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Legal Reference: (see next page)

HOMEWORK/MAKEUP WORK (continued)

Legal Reference:

EDUCATION CODE

8420-8428 *21st Century High School After School Safety and Enrichment for Teens*

8482-8484.65 *After School Education and Safety Program*

8484.7-8484.9 *21st Century Community Learning Centers*

48205 *Absences for personal reasons*

48913 *Completion of work missed by suspended student*

48980 *Parental notifications*

UNITED STATES CODE, TITLE 20

7171-7176 *21st Century Community Learning Centers*

Management Resources:

CSBA PUBLICATIONS

Research-Supported Strategies to Improve the Accuracy and Fairness of Grades, Governance Brief,

July 2016

WEB SITES

CSBA: <http://www.csba.org>

California State PTA: <http://www.capta.org>

INDEPENDENT STUDY

The Board of Trustees authorizes independent study as an optional alternative instructional strategy for eligible students whose needs may be best met through study outside of the regular classroom setting. Independent study shall offer a means of individualizing the educational plan to serve students who desire a more challenging educational experience, whose health or other personal circumstances make classroom attendance difficult, who are unable to access course(s) due to scheduling problems, or fill gaps in their learning. As necessary to meet student needs, independent study may be offered on a full-time basis or on a part-time basis in conjunction with part- or full-time classroom study.

(cf. 5147 - Dropout Prevention)

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6200 - Adult Education)

The Superintendent or designee may provide a variety of independent study opportunities, including, but not limited to, through a program or class within a comprehensive school, an alternative school or program of choice, a charter school, a home-based format, and an online course.

(cf. 0420.4 - Charter School Authorization)

(cf. 6181 - Alternative Schools/Programs of Choice)

A student's participation in independent study shall be voluntary. Students participating in independent study shall have the right, at any time, to enter or return to the regular classroom mode of instruction. (Education Code 51747; 5 CCR 11700)

Parents/guardians of students who are interested in independent study shall contact the Superintendent or designee. The Superintendent or designee shall approve independent study for an individual student only upon determining that the student is prepared to meet the district's requirements for independent study and is likely to succeed in independent study as well as or better than he/she would in the regular classroom setting.

The minimum period of time for any independent study option shall be five consecutive school days.

Written Agreements

The Superintendent or designee shall ensure that a written master agreement and, as appropriate, a learning agreement for students participating in course-based independent study exist for each participating student as prescribed by law. (Education Code 51747, 51749.5)

INDEPENDENT STUDY (continued)

The master agreement shall specify the length of time in which each independent study assignment must be completed. Because excessive leniency in the duration of independent study assignments may result in a student falling behind his/her peers and increase the risk of dropping out of school, independent study assignments shall be no more than one week for all grade levels and types of program. However, when necessary based on the specific circumstances of the student's approved program, the Superintendent or designee may allow for a longer period of time between the date an assignment is made and when it is due, up to the termination date of the agreement.

An evaluation shall be conducted to determine whether it is in a student's best interest to remain in independent study whenever the student misses three assignments, unless the student's written agreement specifies a lower or higher number of missed assignments based on the nature of the assignments, the total number of assignments, and/or other unique circumstances.

*Legal Reference:*EDUCATION CODE*17289 Exemption for facilities**41976.2 Independent study programs; adult education funding**42238 Revenue limits**42238.05 Local control funding formula; average daily attendance**44865 Qualifications for home teachers and teachers in special classes and schools**46200-46208 Instructional day and year**46300-46307.1 Methods of computing average daily attendance**47612.5 Independent study in charter schools**48204 Residency**48206.3 Home or hospital instruction; students with temporary disabilities**48220 Classes of children exempted**48340 Improvement of pupil attendance**48915 Expulsion; particular circumstances**48916.1 Educational program requirements for expelled students**48917 Suspension of expulsion order**49011 Student fees**51225.3 Requirements for high school graduation**51745-51749.6 Independent study programs**52522 Adult education alternative instructional delivery**52523 Adult education as supplement to high school curriculum; criteria**56026 Individuals with exceptional needs**58500-58512 Alternative schools and programs of choice**Legal Reference continued: (see next page)*

INDEPENDENT STUDY (continued)

Legal Reference: (continued)

FAMILY CODE

6550 Authorization affidavits

CODE OF REGULATIONS, TITLE 5

11700-11703 Independent study

19819 State audit compliance

UNITED STATES CODE, TITLE 20

6301 Highly qualified teachers

COURT DECISIONS

Modesto City Schools v. Education Audits Appeal Panel, (2004) 123 Cal.App.4th 1365

EDUCATION AUDIT APPEALS PANEL DECISIONS

Lucerne Valley Unified School District, Case No. 03-02 (2005)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Elements of Exemplary Independent Study

WEB SITES

California Consortium for Independent Study: <http://www.ccis.org>

California Department of Education, Independent Study: <http://www.cde.ca.gov/sp/eo/is>

Education Audit Appeals Panel: <http://www.eaap.ca.gov>

INDEPENDENT STUDY

Educational Opportunities

Educational opportunities offered through independent study may include, but are not limited to: (Education Code 51745)

1. Special assignments extending the content of regular courses of instruction

(cf. 6143 - Courses of Study)

2. Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum
3. Individualized alternative education designed to teach the knowledge and skills of the core curriculum, but not provided as an alternative curriculum
4. Continuing and special study during travel

(cf. 5112.3 - Student Leave of Absence)

In addition, when requested by a parent/guardian due to an emergency, vacation, or illness, independent study may be used on a short-term basis to ensure that the student is able to maintain academic progress in his/her regular classes.

(cf. 5113 - Absences and Excuses)

Equivalency

The district's independent study option shall be substantially equivalent in quality and quantity to classroom instruction to enable participating students to complete the district's adopted course of study within the customary timeframe. Students in independent study shall have access to the same services and resources that are available to other students in the school and shall have equal rights and privileges. (5 CCR 11700, 11701.5)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

The district shall not provide independent study students and their parents/guardians with funds or items of value that are not provided for other students and their parents/guardians. (Education Code 46300.6, 51747.3)

Eligibility for Independent Study

A student participating in independent study must be a resident of the county or an adjacent county. Full-time independent study shall not be available to students whose district residency status is based on their parent/guardian's employment within district boundaries pursuant to Education Code 48204. (Education Code 46300.2, 51747.3)

INDEPENDENT STUDY (continued)

(cf. 5111.1 - District Residency)

For a student with disabilities, as defined in Education Code 56026, participation in independent study shall be approved only if his/her individualized education program specifically provides for such participation. (Education Code 51745)

(cf. 6159 - Individualized Education Program)

A temporarily disabled student shall not receive individual instruction pursuant to Education Code 48206.3 by means of independent study. (Education Code 51745)

(cf. 6183 - Home and Hospital Instruction)

Master Agreement

A written agreement shall be developed and implemented for each student participating in independent study for five or more consecutive school days. (Education Code 46300, 51747; 5 CCR 11703)

The agreement shall include general student data, including the student's name, address, grade level, birth date, school of enrollment, and program placement.

The independent study agreement for each participating student also shall include, but not be limited to, all of the following: (Education Code 51747; 5 CCR 11700, 11702)

1. The manner, time, frequency, and place for submitting the student's assignments and for reporting his/her progress
2. The objectives and methods of study for the student's work and the methods used to evaluate that work
3. The specific resources, including materials and personnel, that will be made available to the student
4. A statement of the Board's policy detailing the maximum length of time allowed between an assignment and its completion and the number of missed assignments, by grade level and type of program, which will trigger an evaluation of whether the student should be allowed to continue in independent study
5. The duration of the independent study agreement, including the beginning and ending dates for the student's participation in independent study under the agreement, with a maximum of one school year

INDEPENDENT STUDY (continued)

6. A statement of the number of course credits or, for an elementary student, other measures of academic accomplishment appropriate to the agreement, to be earned by the student upon completion
7. A statement that independent study is an optional educational alternative in which no student may be required to participate
8. In the case of a suspended or expelled student who is referred or assigned to any school, class, or program pursuant to Education Code 48915 or 48917, a statement that instruction may be provided through independent study only if the student is offered the alternative of classroom instruction

(cf. 5144.1 - Suspension and Expulsion/Due Process)

9. Signatures of the student, the parent/guardian or caregiver of the student if the student is under age 18 years, the certificated employee responsible for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the student

The parent/guardian's signature on the agreement shall constitute permission for the student to receive instruction through independent study.

Monitoring Student Progress

Independent study students who are late, miss scheduled conferences, or do not submit assigned work on time shall not be reported as tardy or truant.

Responsibilities of Independent Study Administrator

The responsibilities of the independent study administrator include, but are not limited to:

1. Recommending certificated staff to be assigned as independent study teachers and supervising staff assigned to independent study functions who are not regularly supervised by another administrator
2. Approving or denying the participation of students requesting independent study
3. Facilitating the completion of written independent study agreements
4. Ensuring a smooth transition for students into and out of the independent study mode of instruction
5. Completing or coordinating the preparation of all records and reports required by law, Board policy, or administrative regulation

INDEPENDENT STUDY (continued)

Assignment and Responsibilities of Independent Study Teachers

Each student's independent study shall be coordinated, evaluated, and carried out under the general supervision of a certificated employee who consents to the assignment. (Education Code 44865, 51747.5; 5 CCR 11700)

The ratio of student average daily attendance for independent study students age 18 years or younger to full-time equivalent certificated employees responsible for independent study shall not exceed the equivalent ratio for all other education programs in the district, unless a new higher or lower ratio for all other educational programs offered is negotiated in a collective bargaining agreement or the district enters into a memorandum of understanding that indicates an existing collective bargaining agreement contains an alternative ratio. (Education Code 51745.6)

The responsibilities of the supervising teacher shall include, but are not limited to:

1. Completing designated portions of the written independent study agreement
2. Supervising and approving coursework and assignments
3. Maintaining records of student assignments showing the date the assignment is given and the date the assignment is due
4. Providing direct instruction and counsel as necessary for individual student success
5. Determining the time value of assigned work or work products completed and submitted by the student
6. Assessing student work and assigning grades or other approved measures of achievement

The Superintendent or designee shall ensure that independent study teachers have access to professional development and support comparable to classroom-based teachers.

(cf. 4131 - Staff Development)

Records

The Superintendent or designee shall ensure that records are maintained for audit purposes. These records shall include, but not be limited to: (Education Code 51748; 5 CCR 11703)

1. A copy of the Board policy, administrative regulation, and other procedures related to independent study

INDEPENDENT STUDY (continued)

2. A listing of the students, by grade level, program, and school, who have participated in independent study, along with the units of the curriculum attempted and completed by students in grades K-8
3. A file of all agreements, with representative samples of each student's work products bearing the supervising teacher's notations indicating that he/she has personally evaluated the work or that he/she has personally reviewed the evaluations made by another certificated teacher
4. As appropriate to the program in which the students are participating, a daily or hourly attendance register that is separate from classroom attendance records, maintained on a current basis as time values of student work products judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons

(cf. 3580 - District Records)

The Superintendent or designee also shall maintain a record of grades and other evaluations issued to each student for independent study assignments.

The signed, dated agreement, any supplemental agreement, assignment records, work samples, and attendance records may be maintained on file electronically. (Education Code 51747)

INDIVIDUALIZED EDUCATION PROGRAM

The Board of Trustees desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education Under Section 504)

The Superintendent or designee shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

Legal Reference: (see next page)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Legal Reference:

EDUCATION CODE

51225.3 *Requirements for high school graduation and diploma*
56055 *Rights of foster parents pertaining to foster child's education*
56136 *Guidelines for low incidence disabilities areas*
56195.8 *Adoption of policies*
56321 *Development or revision of IEP*
56321.5 *Notice to include right to electronically record*
56340.1-56347 *Instructional planning and individualized education program*
56350-56352 *IEP for visually impaired students*
56380 *IEP reviews; notice of right to request*
56390-56392 *Certificate of completion, special education*
56500-56509 *Procedural safeguards*
60640-60649 *California Assessment of Student Performance and Progress*
60850-60859 *High school exit examination, especially:*
60852.3 *High school exit examination, exemption for students with disabilities*

FAMILY CODE

6500-6502 *Age of majority*

GOVERNMENT CODE

7572.5 *Seriously emotionally disturbed child, expanded IEP team*

WELFARE AND INSTITUTIONS CODE

300 *Children subject to jurisdiction*
601 *Minors habitually disobedient*
602 *Minors violating law defined as crime*

CODE OF REGULATIONS, TITLE 5

853-853.5 *State assessments, accommodations*
1215.5-1218 *High School Exit Examination, accommodations for students with disabilities*
3021-3029 *Identification, referral and assessment*
3040-3043 *Instructional planning and the individualized education program*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*
1400-1482 *Individuals with Disabilities Education Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 *Individuals with Disabilities Education Act*

COURT DECISIONS

Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 627 F.3d 773
Schaffer v. Weast (2005) 125 S. Ct. 528
Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072
Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398

ATTORNEY GENERAL OPINIONS

85 *Ops.Cal.Atty.Gen.* 157 (2002)

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education: <http://www.cde.ca.gov>
U.S. Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/about/offices/list/osers/osep>

INDIVIDUALIZED EDUCATION PROGRAM

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 34 CFR 300.323)

Members of the IEP Team

The IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them
2. If the student is or may be participating in the regular education program, at least one of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414(d)(3)(C); 34 CFR 300.324)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

3. At least one of the student's special education teachers or, where appropriate, special education providers
4. A representative of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities
 - b. Knowledgeable about the general education curriculum
 - c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources

(cf. 0430 - Comprehensive Local Plan for Special Education)

5. An individual who can interpret the instructional implications of assessment results

INDIVIDUALIZED EDUCATION PROGRAM (continued)

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability

In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)
2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)
 - a. The student, regardless of his/her age

INDIVIDUALIZED EDUCATION PROGRAM (continued)

If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.

- b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C); 34 CFR 300.321)

Contents of the IEP

The IEP shall include, but not be limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
 - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
 - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities

INDIVIDUALIZED EDUCATION PROGRAM (continued)

- c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives
2. A statement of measurable annual goals, including academic and functional goals, designed to:
 - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
 - b. Meet each of the student's other educational needs that result from his/her disability
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
 - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP

(cf. 3541.2 - Transportation for Students with Disabilities)

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

INDIVIDUALIZED EDUCATION PROGRAM (continued)

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6162.52 - High School Exit Examination)

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
 - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English

(cf. 6174 - Education for English Learners)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)

(cf. 5148.2 - Before/After School Programs)

(cf. 6177 - Summer School)

4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:

- a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
- b. Support the transition of the student from the special education program into the regular education program

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6178 - Career Technical Education)

(cf. 6181 - Alternative Schools/Programs of Choice)

5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56341.1, 56345; 20 USC 1414(d)(3)(A); 34 CFR 300.324)

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Provision of Special Education and Related Services

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414(d)(4); 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate
 - b. The results of any reassessment conducted pursuant to Education Code 56381
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305(a)(2) and Education Code 56381(b)
 - d. The student's anticipated needs
 - e. Any other relevant matter
3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414(d); 34 CFR 300.324)

If a student with a disability residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the Superintendent or designee shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6173.1 - Education for Foster Youth)

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

INDIVIDUALIZED EDUCATION PROGRAM (continued)**Audio Recording of IEP Team Meetings**

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform them of:
 - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)
 - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team

INDIVIDUALIZED EDUCATION PROGRAM (continued)

meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)
2. An indication that the student is invited to the IEP team meeting
3. Identification of any other agency that will be invited to send a representative

(cf. 5145.6 - Parental Notifications)

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

(cf. 5125 - Student Records)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414(f); 34 CFR 300.322)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

Regulation
approved:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

The Board of Trustees desires to protect the rights of students with disabilities in accordance with the procedural safeguards set forth in state and federal law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education Students)

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

The Superintendent or designee shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference: (see next page)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Legal Reference:

EDUCATION CODE

56000 Education for individuals with disabilities

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3100 Regulations governing special education

4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42

11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34

99.10-99.22 Inspection, review and procedures for amending education records

104.36 Procedural safeguards

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.500-300.520 Procedural safeguards and due process for parents and students

COURT DECISIONS

Winkelman v. Parma City School District, (2007) 550 U.S. 516

Management Resources:

FEDERAL REGISTER

Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time: (20 USC 1415(c); 34 CFR 300.102, 300.300, 300.503; Education Code 56500.4, 56500.5)

1. Before the district initially refers the student for assessment
2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. Before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child

This notice shall include: (20 USC 1415(c); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action
4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained
5. Sources for parents/guardians to obtain assistance in understanding these provisions
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

(cf. 6159 - Individualized Education Program)

7. A description of any other factors relevant to the district's proposal or refusal

(cf. 5145.6 - Parental Notifications)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint in a school year
(cf. 1312.3 - Uniform Complaint Procedures)
3. Upon receipt of the first due process hearing request in a school year
4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct constituting a change of placement

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

5. Upon request by a parent/guardian

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
2. Prior written notice
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services
4. Access to educational records

(cf. 5125 - Student Records)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures
6. The availability of mediation
7. The student's placement during the pendency of any due process complaint
8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense
10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
11. State-level appeals
12. Civil actions, including the time period in which to file those actions
13. Attorney's fees

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication.
2. The parent/guardian understands the contents of the notice.
3. There is written evidence that items #1 and #2 have been satisfied.

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC 1415(d))

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR 300.505)

Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415(b); Education Code 56501)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415(b); 34 CFR 300.508; Education Code 56502)

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student

(cf. 6173 - Education for Homeless Children)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

District's Response to Due Process Complaints

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint. (20 USC 1415(c)(1); 34 CFR 300.508)

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint containing: (20 USC 1415(c)(1); 34 CFR 300.508):

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

Regulation
approved:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

The Board of Trustees recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 56195.8, 56342.1)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION (continued)**

In accordance with Education Code 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, 56366.3, and 56366.6.

(cf. 1431 - Waivers)

Legal Reference:

EDUCATION CODE

56034-56035 *Definitions of nonpublic, nonsectarian school and agency*
56042 *Placement not to be recommended by attorney with conflict of interest*
56101 *Waivers*
56163 *Certification*
56168 *Responsibility for education of student in hospital or health facility school*
56195.8 *Adoption of policies*
56342.1 *Individualized education program; placement*
56360-56369 *Implementation of special education*
56711 *Computation of state aid*
56740-56743 *Apportionments and reports*
56760 *Annual budget plan; service proportions*
56775.5 *Reimbursement of assessment and identification costs*

FAMILY CODE

7911-7912 *Interstate compact on placement of children*

GOVERNMENT CODE

7570-7587 *Interagency responsibilities for providing services to disabled children; especially:*
7572.55 *Seriously emotionally disturbed child; out-of-state placement*

WELFARE AND INSTITUTIONS CODE

362.2 *Out-of-home placement for IEP*
727.1 *Out-of-state placement of wards of court*

CODE OF REGULATIONS, TITLE 5

3001 *Definitions*
3060-3070 *Nonpublic, nonsectarian school and agency services*

UNITED STATES CODE, TITLE 20

1400-1487 *Individuals with Disabilities Education Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 *Children with disabilities in private schools*

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers>

Policy
adopted:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION**Master Contract**

Every master contract with a nonpublic, nonsectarian school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and services, including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 6146.1 - High School Graduation Requirements)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code 56366)

Placement and Services

The Superintendent or designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

(cf. 6159 - Individualized Education Program)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION** (continued)

Prior to the annual review of a student's IEP, the Superintendent or designee shall notify any high school district to which the student may transfer of the student's enrollment in a nonpublic, nonsectarian school or agency. (5 CCR 3069)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

Regulation
approved:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

In order to protect the rights of students with disabilities, the Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities as necessary in accordance with law. He/she shall develop procedures for recruiting, training and assigning adults to serve as surrogate parents.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

Legal Reference: (see next page)

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION
STUDENTS (continued)**

Legal Reference:

EDUCATION CODE

56028 Parent

56050 Surrogate parents

56055 Rights of foster parents

GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to disabled children, especially:

7579.5 Surrogate parent; appointment; qualifications; liability

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

361 Limitations on parental control

601 Minors habitually disobedient or truant

602 Minors violating laws

726 Limitations on parental control

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

300.30 Definition parent

300.519 Surrogate parents

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers/index.html>

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

Conditions Necessitating a Surrogate

The Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances: (Government Code 7579.5; 20 USC 1415(b)(2); 34 CFR 300.519)

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602 and all of the following conditions are satisfied:
 - a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)
 - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055

(cf. 6159 - Individualized Education Program)

4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a

(cf. 6173 - Education for Homeless Children)

5. The student has reached the age of majority but has been declared incompetent by a court of law

Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 USC 1412(b)(2)(B))

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS (continued)

any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

(cf. 6173.1 - Education for Foster Youth)

Surrogate parents shall have no interests that conflict with the student's educational interests and shall have knowledge and skills that ensure adequate representation of the student. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent. (34 CFR 300.519; Government Code 7579.5)

Duties of Surrogate Parent

The surrogate parent shall have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1400-1482 and 34 CFR 300.1-300.818. The surrogate parent may represent the student in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7587. (Education Code 56050)

(cf. 5141 - Health Care and Emergencies)

Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

(cf. 3350 - Travel Expenses)

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION
STUDENTS** (continued)

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board policy and administrative regulation.

(cf. 5125 - Student Records)

Termination of Appointment

The Superintendent or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education (Government Code 7579.5)
2. When the student reaches 18 years of age, unless he/she chooses not to make education decisions for himself/herself or is deemed by a court to be incompetent (Government Code 7579.5)
3. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)
4. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)

Regulation
approved:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

Generally, any student identified as a student with a disability pursuant to the Individuals with Disabilities Education Act, 20 USC 1400-1482, is subject to the same disciplinary measures applicable to all students for violations of the code of conduct, except when the student's behavior is determined to be a manifestation of his/her disability.

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

However, when the behavior of a student with a disability impedes his/her learning or the learning of others, the student's individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior. (Education Code 56521.2; 34 CFR 300.324)

If, pursuant to a manifestation determination conducted as specified in 34 CFR 300.530, the student's behavior is determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the student. If a BIP is already in place for the student, the IEP team shall review and modify the BIP to address the student's behavior. (Education Code 56520; 34 CFR 300.324, 300.530)

In addition, when the disciplinary removal of a student with a disability will result in a change in the student's placement as specified in 34 CFR 300.530, the student shall receive an FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur. (34 CFR 300.530)

Functional Behavioral Assessment

Prior to providing any behavioral intervention service to a student with a disability, an FBA focusing on identifying the function or purpose of the student's behavior shall be conducted by the student's IEP team.

Before any FBA is conducted, the Superintendent or designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain the parent/guardian's consent. (Education Code 56321; 34 CFR 300.324)

(cf. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in 34 CFR 300.502.

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

Behavioral Intervention Plan and Services

When any behavioral intervention, support, or other strategy is to be used by the district, the Superintendent or designee shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment. (Education Code 56520)

When a student for whom a BIP is to be developed is also the responsibility of another agency for residential care or related services, the Superintendent or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner. (Education Code 56520)

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3051.23.

Emergency Interventions

Emergency interventions may be used only to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student or others and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior. (Education Code 56521.1)

No emergency intervention shall be used for longer than is necessary to contain the behavior. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

Emergency interventions shall not involve the use of force exceeding what is reasonable and necessary under the circumstances. In addition, use of locked seclusion or a device, material, or objects that simultaneously immobilize all hands and feet shall not be allowed except as allowed by law. (Education Code 56521.1)

Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include all of the following information: (Education Code 56521.1)

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used
5. A statement of whether the student is currently engaged in a systematic BIP
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident

If the behavior emergency report is for a student who does not have a BIP, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing the interim BIP. (Education Code 56521.1)

If the behavior emergency report is for a student who has a BIP, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (Education Code 56521.1)

Prohibited Interventions

The district prohibits the use of corporal punishment as defined in Education Code 49001 as an intervention. In addition, the district prohibits all of the following: (Education Code 56521.2)

1. Any intervention designed or likely to cause physical pain, including, but not limited to, electric shock
2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances near the student's face
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities
4. Any intervention that is designed to subject, used to subject, or likely to subject the student to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

5. Any restrictive intervention that uses a device, material, or objects which simultaneously immobilize all hands and feet, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention
6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5

3065 Staff qualifications - related services

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

Behavior Analyst Certification Board: <http://www.calaba.org/bacb.shtm>

U.S. Department of Education, Office of Special Education Programs:

<http://www2.ed.gov/about/offices/list/osers/osep>

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

The Board of Trustees desires that district instructional materials, as a whole, present a broad spectrum of knowledge and viewpoints, reflect society's diversity, and enhance the use of multiple teaching strategies and technologies. The Board shall adopt instructional materials based on a determination that such materials are an effective learning resource to help students achieve grade-level competency and that the materials meet criteria specified in law. Textbooks, technology-based materials, and other educational materials shall be aligned with academic content standards and the district's curriculum to ensure that they effectively support the district's adopted courses of study.

(cf. 0440 - District Technology Plan)

(cf. 6000 - Concepts and Roles)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6162.5 - Student Assessment)

(cf. 6163.1 - Library Media Centers)

The Board shall select instructional materials for use in grades K-8 that have been approved by the State Board of Education (SBE) or have otherwise been determined to be aligned with the state academic content standards adopted pursuant to Education Code 60605 or the Common Core State Standards adopted pursuant to Education Code 60605.8. (Education Code 60200, 60210)

Review Process

The review process shall involve teachers in a substantial manner and shall encourage the participation of parents/guardians and community members. (Education Code 60002)

(cf. 6020 - Parent Involvement)

In addition, the instructional materials review committee may include administrators, other staff who have subject-matter expertise, and students as appropriate.

If the district chooses to use instructional materials for grades K-8 that have not been adopted by the SBE, the Superintendent or designee shall ensure that a majority of the participants in the district's review process are classroom teachers who are assigned to the subject area or grade level of the materials. (Education Code 60210)

Individuals who participate in the selection or review of instructional materials shall not have a conflict of interest, as defined in administrative regulation, in the materials being reviewed.

(cf. 9270 - Conflict of Interest)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

The committee shall review instructional materials using criteria provided in law and administrative regulation, and shall provide the Board with documentation supporting its recommendations.

All recommended instructional materials shall be available for public inspection at the district office.

(cf. 5020 - Parent Rights and Responsibilities)

The district may pilot instructional materials, using a representative sample of classrooms for a specified period of time during a school year, in order to determine how well the materials support the district's curricular goals and academic standards. Feedback from teachers piloting the materials shall be made available to the Board before the materials are adopted.

Public Hearing on Sufficiency of Instructional Materials

The Board shall annually conduct one or more public hearings on the sufficiency of the district's textbooks and other instructional materials. (Education Code 60119)

The hearing shall be held on or before the end of the eighth week from the first day students attend school for that year. (Education Code 60119)

The Board encourages participation by parents/guardians, teachers, interested community members, and bargaining unit leaders at the hearing. Ten days prior to the hearing, the Superintendent or designee shall post a notice in three public places within the district containing the time, place, and purpose of the hearing. The hearing shall not take place during or immediately following school hours. (Education Code 60119)

(cf. 9322 - Agenda/Meeting Materials)

At the hearing(s), the Board shall determine, through a resolution, whether each student in each school, including each English learner, has sufficient textbooks or instructional materials which are aligned to the state content standards adopted pursuant to Education Code 60605 or the Common Core State Standards adopted pursuant to Education Code 60605.8 and which are consistent with the content and cycles of the state's curriculum frameworks. Sufficiency of instructional materials shall be determined in each of the following subjects: (Education Code 60119)

1. Mathematics

(cf. 6142.92 - Mathematics Instruction)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

2. Science

(cf. 6142.93 - Science Instruction)

3. History-social science

(cf. 6142.94 - History-Social Science Instruction)

4. English language arts, including the English language development component of an adopted program

(cf. 6142.91 - English/Language Arts Instruction)

(cf. 6174 - Education for English Learners)

5. World/foreign language

(cf. 6142.2 - World/Foreign Language Instruction)

6. Health

(cf. 6142.8 - Comprehensive Health Education)

In making these determinations, the Board shall consider whether each student has sufficient textbooks and/or instructional materials to use in class and to take home. However, this does not require that each student have two sets of materials. The materials may be in a digital format as long as each student, at a minimum, has and can access the same materials in the class and to take home as all other students in the same class or course in the district and has the ability to use and access them at home. However, the materials shall not be considered sufficient if they are photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage. (Education Code 60119)

If the Board determines that there are insufficient textbooks or instructional materials, it shall provide information to classroom teachers and to the public setting forth, for each school in which an insufficiency exists, the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each student does not have sufficient textbooks or instructional materials. The Board shall take any action, except an action that would require reimbursement by the Commission of State Mandates, to ensure that each student has sufficient materials within two months of the beginning of the school year in which the determination is made. (Education Code 60119)

The degree to which every student has sufficient access to standards-aligned instructional materials shall be included in the district's local control and accountability plan. (Education Code 52060)

(cf. 0460 - Local Control and Accountability Plan)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Complaints

Complaints concerning instructional materials shall be handled in accordance with law, Board policy, and administrative regulation.

(cf. 1312.2 - *Complaints Concerning Instructional Materials*)

(cf. 1312.4 - *Williams Uniform Complaint Procedures*)

Legal Reference:

EDUCATION CODE

220 Prohibition against discrimination

1240 County superintendent, general duties

33050-33053 General waiver authority

33126 School accountability report card

35272 Education and athletic materials

44805 Enforcement of course of studies; use of textbooks, rules and regulations

49415 Maximum textbook weight

51501 Nondiscriminatory subject matter

52060-52077 Local control and accountability plan

60000-60005 Instructional materials, legislative intent

60010 Definitions

60040-60052 Instructional requirements and materials

60060-60063.5 Requirements for publishers and manufacturers

60070-60076 Prohibited acts (re instructional materials)

60110-60115 Instructional materials on alcohol and drug education

60119 Public hearing on sufficiency of materials

60200-60210 Elementary school materials

60226 Requirements for publishers and manufacturers

60350-60352 Core reading program instructional materials

60400-60411 High school textbooks

60510-60511 Donation for sale of obsolete instructional materials

60605 State content standards

60605.8 Common Core State Standards

60605.86-60605.88 Supplemental instructional materials aligned with Common Core State Standards

CODE OF REGULATIONS, TITLE 5

9505-9530 Instructional materials

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Instructional Materials FAQ

01-05 *Guidelines for Piloting Textbooks and Instructional Materials*, rev. January 2015

Standards for Evaluating Instructional Materials for Social Content, 2013

WEB SITES

CSBA: <http://www.csba.org>

Association of American Publishers: <http://www.publishers.org>

California Academic Content Standards Commission, *Common Core State Standards*:

<http://www.scoe.net/castandards>

California Department of Education: <http://www.cde.ca.gov>

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

Criteria for Selection and Adoption of Instructional Materials

In recommending textbooks or other instructional materials for adoption by the Board of Trustees, the Superintendent or designee shall ensure that such materials:

1. Are aligned to any applicable academic content standards adopted by the State Board of Education (SBE) pursuant to Education Code 60605 and/or Common Core Standards adopted pursuant to Education Code 60605.8

(cf. 6011 - Academic Standards)

For grades K-8, the Superintendent or designee shall select instructional materials from among the list of materials adopted by the SBE and/or other materials that have not been adopted by the SBE but are aligned with the state academic content standards and/or the Common Core Standards. (Education Code 60200, 60210)

(cf. 6161.11 - Supplementary Instructional Materials)

2. Do not reflect adversely upon persons because of their race or ethnicity, gender, religion, disability, nationality, sexual orientation, occupation, or other characteristic listed in Education Code 220, nor contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 51501, 60044)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

3. To the satisfaction of the Board, are accurate, objective, current, and suited to the needs and comprehension of district students at their respective grade levels (Education Code 60045)
4. With the exception of literature and trade books, use proper grammar and spelling (Education Code 60045)
5. Do not expose students to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following: (Education Code 60048, 60200)
 - a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by the SBE.
 - b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration.

(cf. 1325 - Advertising and Promotion)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

6. If the materials are technology-based materials, are both available and comparable to other, equivalent instructional materials (Education Code 60052)
7. Meet the requirements of Education Code 60040-60043 for specific subject content
8. Support the district's adopted courses of study and curricular goals
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6142.2 - World/Foreign Language Instruction)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.91 - English/Language Arts Instruction)
(cf. 6142.92 - Mathematics Instruction)
(cf. 6142.93 - Science Instruction)
(cf. 6142.94 - History-Social Science Instruction)
(cf. 6143 - Courses of Study)
(cf. 6146.1 - High School Graduation Requirements)
9. Contribute to a comprehensive, balanced curriculum
10. Demonstrate reliable quality of scholarship as evidenced by:
 - a. Accurate, up-to-date, and well-documented information
 - b. Objective presentation of diverse viewpoints
 - c. Clear, concise writing and appropriate vocabulary
 - d. Thorough treatment of subject matter
11. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities, and developmental levels
12. Include materials that stimulate discussion of contemporary issues and improve students' thinking and decision-making skills
13. Contribute to the proper articulation of instruction through grade levels
14. As appropriate, have corresponding versions available in languages other than English
15. Include high-quality teacher's guides
16. Meet high standards in terms of the quality, durability, and appearance of paper, binding, text, and graphics

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

17. When available, include options for lighter weight materials in order to help minimize any injury to students by the combined weight of instructional materials

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

Resolution On Sufficiency Of Instructional Materials

Whereas, the Board of Trustees of the *Berryessa Union School District*, in order to comply with the requirements of Education Code 60119, held a public hearing on *(date)*, at *(time)* o'clock, which is on or before the eighth week of school (between the first day that students attend school and the end of the eighth week from that day) and which did not take place during or immediately following school hours, and;

Whereas, the Board provided at least 10 days notice of the public hearing by posting it in at least three public places within the district stating the time, place, and purpose of the hearing, and;

Whereas, the Board encouraged participation by parents/guardians, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

Whereas, information provided at the public hearing detailed the extent to which sufficient textbooks or instructional materials were provided to all students, including English learners, in the *Berryessa Union School District*, and;

Whereas, the definition of "sufficient textbooks or instructional materials" means that each student, including each English learner, has a standards-aligned textbook or instructional materials to use in class and to take home, which may include materials in a digital format but shall not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage, and;

Whereas, textbooks or instructional materials in core curriculum subjects should be aligned with state academic content standards adopted by the State Board of Education pursuant to Education Code 60605 and/or the Common Core State Standards adopted pursuant to Education Code 60605.8;

Finding of Sufficient Textbooks or Instructional Materials

Whereas, sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks were provided to each student, including each English learner, in the following subjects:

- Mathematics: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*
Go Math (K-2), EnVision (3-5), CPM (6-8)
- Science: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*
NGSS Materials (SEAL Units), adopting new curriculum in the 2018-2019 school year.

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

- History-social science: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*
Adopting new curriculum in the 2018-2019 school year.
- English language arts, including the English language development component of an adopted program: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*
Benchmark Advance (TK-5), HMH Collections (6-8).
- Health: *(List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)*
CHYA Materials

Therefore, it is resolved that for the (year) school year, the *Berryessa Union School District* has provided each student with sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks.

Finding of Insufficient Textbooks or Instructional Materials

Whereas, information provided at the public hearing and to the Board at the public meeting detailed that insufficient standards-aligned textbooks or instructional materials were provided to students in the following subjects and grade levels at district schools: *(For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in mathematics, science, history-social science, English language arts, and health.)*

Whereas, sufficient textbooks or instructional materials were not provided at each school listed above due to the following reasons: *(For each school at which there is an insufficiency, list the reasons that each student does not have sufficient instructional materials in each subject and grade level listed above.)*

Therefore, it is resolved, that for the (year) school year, the *Berryessa Union School District* has not provided each student with sufficient textbooks or instructional materials that are consistent with the cycles and content of the curriculum framework, and;

Be it further resolved, that the following actions will be taken to ensure that all students have sufficient standards-aligned textbooks or instructional materials in all subjects that are consistent with the cycles and content of the curriculum frameworks within two months of the beginning of the school year in which this determination is made. *(List actions to be taken to resolve insufficiency.)*

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

Attest:

Clerk of the Board
Berryessa Union School District

SUPPLEMENTARY INSTRUCTIONAL MATERIALS

The Board of Trustees encourages the use of supplementary instructional materials to enrich the curriculum and enhance student learning. Such materials shall be aligned with district goals, curriculum objectives, and academic standards and shall supplement and not supplant the use of Board-adopted basic instructional materials that serve as the primary learning resources.

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)
(cf. 6011 - Academic Standards)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Supplementary instructional materials include, but are not limited to, instructional materials that are designed to serve one or more of the following purposes: (Education Code 60010)

1. To provide more complete coverage of one or more subjects included in a given course
2. To meet the various learning ability levels of students in a given age group or grade level
3. To meet the diverse educational needs of students with a language disability in a given age group or grade level
4. To meet the diverse educational needs of students reflective of a condition of cultural pluralism
5. To use current, relevant technology that further engages interactive learning in the classroom and beyond

(cf. 6142.91 - English/Language Arts Instruction)
(cf. 6142.92 - Mathematics Instruction)
(cf. 6142.93 - Science Instruction)
(cf. 6142.94 - History-Social Science Instruction)

Supplementary instructional materials may be selected by the Superintendent or designee, school administrators, or teachers, as applicable, and obtained through donations to the district and/or available funding sources designated for these purposes.

(cf. 1260 - Educational Foundation)
(cf. 3290 - Gifts, Grants and Bequests)
(cf. 4132/4232/4332 - Publication or Creation of Materials)

As appropriate, supplementary instructional materials shall meet the criteria developed for the selection and evaluation of basic instructional materials as described in AR 6161.1 -

SUPPLEMENTARY INSTRUCTIONAL MATERIALS (continued)

Selection and Evaluation of Instructional Materials. Supplementary instructional materials shall be directly related to the course of study in which they are being used and shall be appropriate for the age and maturity level of the students.

The use or reproduction of supplementary instructional materials shall be in accordance with federal copyright law.

(cf. 6162.6 - Use of Copyrighted Materials)

Supplementary Materials Aligned with Common Core Standards

To prepare district students to achieve the Common Core Standards in English language arts and mathematics and the English language development standards, as applicable, the Board may select supplementary instructional materials from the lists of materials determined by the State Board of Education (SBE) to be aligned with those standards. (Education Code 60605.86-60605.88)

The Board may approve supplementary instructional materials that are not on the lists approved by the SBE but which are aligned with the Common Core Standards provided that the materials comply with the evaluation criteria established by the SBE and Education Code 60050, 60060-60062, and 60226. The Board shall select content review experts who possess the qualifications specified in law to review and recommend such supplementary materials. The majority of the content review experts shall be teachers who are credentialed and/or authorized in the subject area they are reviewing and the remainder shall include appropriate persons from postsecondary educational institutions, school and district curriculum administrators, and other persons who are knowledgeable in the subject area. (Education Code 60605.86-60605.88)

Appropriateness of Materials

Whenever a district employee proposes to use a supplementary resource which is not included in the approved learning resources of the district, he/she shall preview the material to determine whether, in his/her professional judgment, it is appropriate for the grade level taught and is consistent with district criteria for the selection of supplementary instructional materials.

The employee shall confer with the Superintendent or designee as necessary to determine the compliance of the material with district criteria. The primary considerations should be the educational value, appropriateness, and relevance of the materials as well as the ages and maturity of the students.

(cf. 6141.2 - Recognition of Religious Beliefs and Customs)

SUPPLEMENTARY INSTRUCTIONAL MATERIALS (continued)

(cf. 6142.1 - *Sexual Health and HIV/AIDS Prevention Instruction*)
(cf. 6144 - *Controversial Issues*)

Legal Reference:

EDUCATION CODE

233.5 *Duty regarding instruction in morals, manners, and citizenship*

18111 *Exclusion of books by Board of Trustees*

51510 *Prohibited study or supplemental materials*

51511 *Religious matters properly included*

51933 *Sex education materials*

60010 *Definitions*

60050 *Social content review of instructional materials*

60060-60062 *Requirements of publishers*

60200.7 *Suspension of state instructional materials adoptions*

60226 *Learner verification of instructional materials*

60400 *Adoption of high school instructional materials*

60605.8 *Common Core Standards*

60605.86-60605.88 *Supplemental instructional materials aligned with Common Core Standards*

60811.3 *English language development standards*

COURT DECISIONS

McCarthy v. Fletcher, (1989) 207 Cal. App. 3d 130

Fowler v. Board of Education of Lincoln County, (1978) 819 F.2d 657

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Standards for Evaluating Instructional Materials for Social Content, 2000

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

DAMAGED OR LOST INSTRUCTIONAL MATERIALS

The Board of Trustees recognizes that instructional materials are an expensive resource and that each student is entitled to sufficient instructional materials in accordance with law. Instructional materials provided for use by students remain the property of the district. Students are responsible for returning borrowed materials in good condition, with no more wear and tear than usually results from normal use.

(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3260 - Fees and Charges)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

When materials are lost or so damaged that they are no longer usable, the student shall be immediately issued a replacement material. However, students or parents/guardians shall be responsible for reparation equal to the current replacement cost of the materials. When materials are damaged but still usable, the Superintendent or designee shall determine an appropriate charge.

If it can be demonstrated to the Superintendent or designee's satisfaction that the student has taken all reasonable precautions to safeguard instructional materials issued to him/her, the Superintendent or designee may excuse the student or parent/guardian from payment of reparation.

If reparation is not excused and not paid by the student or parent/guardian, the district may withhold the student's grades, diploma and transcripts in accordance with law, Board policy, and administrative regulation.

(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)
(cf. 5131.5 - Vandalism and Graffiti)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

Legal Reference:

EDUCATION CODE

48904 Willful misconduct; limit of liability of parent or guardian
48904.3 Withholding grades, diplomas or transcripts of students causing property damage or injury
60119 Public hearing on sufficiency of materials
60411 Purchase and use; property of district

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

CODE OF REGULATIONS, TITLE 5

305 Student responsible for care of property

Management Resources:

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

TOXIC ART SUPPLIES

The Board of Trustees recognizes its responsibility to protect the health and safety of students in the selection of materials used for instruction in arts and crafts activities.

The Superintendent or designee shall develop procedures for the purchase, use and proper disposal of arts and crafts materials which ensure that the health and safety of students is protected from harmful exposure to toxic substances in accordance with Education Code 32064 and established health standards.

The Superintendent or designee shall ensure that arts and crafts material purchased for use by students in grades K-6 will not contain toxic substances or cause chronic illness as determined by the State Department of Health Services.

Students in grades 7-8 are considered able to read and understand product labels and to take adequate precautions to use products which are prohibited for use in grades K-6. The Superintendent or designee shall ensure that arts and crafts materials purchased for use in grades 7-8 meet the requirements of Education Code 32065. The products must be properly labeled to identify toxic ingredients, warn of potential adverse health effects and describe procedures for safe use and storage.

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)
(cf. 5142 - Safety)

Legal Reference:

EDUCATION CODE

- 32060 Legislative findings and declarations*
- 32061 Art or craft material; definition*
- 32062 Human carcinogen; definition*
- 32063 Toxic substance causing chronic illness; definition*
- 32064 Restrictions on purchases of arts and crafts materials*
- 32065 Warning labels*
- 32066 List of toxic art supplies; preparation and distribution*

HEALTH AND SAFETY CODE

- 108500-108515 Labeling of arts and crafts materials*

PENAL CODE

- 594.1 Aerosol containers of paint*

Management Resources:

CDE PROGRAM ADVISORIES:

- 0712.94 Toxic Art Supplies List of Approved Products CIL :94/95-01*

STUDENT ASSESSMENT

The Board of Trustees recognizes that student assessments are an important instructional and accountability tool. Assessment data shall be used to help determine individual students' progress, mastery of academic standards, appropriate placement in district programs, and/or eligibility for graduation. In addition, summary data on student assessment results shall be used by the district to identify and review student achievement goals in the district's local control and accountability plan, evaluate district educational programs in order to identify needed improvements, and, as appropriate, evaluate staff performance.

(cf. 0460 - Local Control and Accountability Plan)
(cf. 0500 - Accountability)
(cf. 2140 - Evaluation of the Superintendent)
(cf. 4115 - Evaluation/Supervision)
(cf. 4315 - Evaluation/Supervision)
(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 5123 - Promotion/Acceleration/Retention)
(cf. 6011 - Academic Standards)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6162.51 - State Academic Achievement Tests)
(cf. 6162.52 - High School Exit Examination)
(cf. 6190 - Evaluation of the Instructional Program)

To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments. As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, and/or school site to allow for critical analysis of student needs.

(cf. 3553 - Free and Reduced Price Meals)

In selecting or developing any district assessment, the Superintendent or designee shall examine evidence of its reliability, its validity for the intended purpose and for various student populations, and the extent to which it aligns with the material that is being taught.

The Superintendent or designee shall ensure that assessments are administered in accordance with law and the test publisher's directions and that test administration procedures are fair and equitable for all students.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 6162.54 - Test Integrity/Test Preparation)

The Superintendent or designee shall provide professional development as needed to assist administrators and teachers in interpreting and using assessment data to improve student performance and the instructional program.

(cf. 4131 - Staff Development)
(cf. 4331 - Staff Development)

STUDENT ASSESSMENT (continued)

When districtwide and school-level results of student assessments are published by the state, the Superintendent or designee may provide supplementary information to assist parents/guardians and the community in understanding test results.

(cf. 0510 - School Accountability Report Card)

Legal Reference:

EDUCATION CODE

313 Assessment of English language development
10600-10610 California Education Information System
44660-44665 Evaluation and assessment of performance of certificated employees (Stull Act)
49558 Free and reduced-price meals; use of individual applications and records
51041 Evaluation of educational program
51450-51455 Golden State Seal Merit Diploma
52052 Academic Performance Index; numerically significant student subgroups
52060-52077 Local control and accountability plan
60600-60649 Assessment of academic achievement, especially:
60640-60649 California Assessment of Student Performance and Progress
60800 Physical fitness testing
60810-60812 Assessment of English language development
60850-60859 High school exit examination
60900 California Longitudinal Pupil Achievement Data System

CODE OF REGULATIONS, TITLE 5

850-864 California Assessment of Student Performance and Progress
1200-1225 High School Exit Examination

UNITED STATES CODE, TITLE 20

9622 National Assessment of Educational Progress

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Key Elements of Testing, May 2004

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Teachers' Use of Student Data Systems to Improve Instruction, 2007

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

Smarter Balanced Assessment Consortium: <http://www.smarterbalanced.org>

U.S. Department of Education: <http://www.ed.gov>

STATE ACADEMIC ACHIEVEMENT TESTS

The Board of Trustees recognizes that state achievement test results provide an indication of student progress in achieving state academic standards and may be used to promote high-quality teaching and learning. The Superintendent or designee shall administer mandatory student assessments within the California Assessment of Student Performance and Progress (CAASPP) as required by law and in accordance with Board policy and administrative regulation.

(cf. 6011 - Academic Standards)
(cf. 6162.5 - Student Assessment)
(cf. 6162.54 - Test Integrity/Test Preparation)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

The Board strongly encourages all students at the applicable grade levels to participate in the state assessments in order to maximize the usefulness of the data and enable the district to meet participation levels required for state and federal accountability systems. The Superintendent or designee shall notify students and parents/guardians about the importance of these assessments and shall develop strategies to encourage student participation. Students shall be exempted from participation only in accordance with law and administrative regulation.

(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)

The Board shall annually examine state assessment results by school, grade level, and student subgroup as one measure of the district's progress in attaining its student achievement goals and shall revise the local control and accountability plan and other district or school plans as necessary to improve student achievement for underperforming student groups.

(cf. 0460 - Local Control and Accountability Plan)
(cf. 0500 - Accountability)

Legal Reference: (see next page)

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Legal Reference:

EDUCATION CODE

49076 *Student records; access*

51041 *Evaluation of educational program*

52052 *Academic Performance Index; numerically significant student subgroups*

52060-52077 *Local control and accountability plan*

56345 *Individualized education program, contents*

60600-60630 *Assessment of academic achievement*

60640-60649 *California Assessment of Student Performance and Progress*

60660-60663 *Electronic learning assessment resources*

60810 *Assessment of language development*

99300-99301 *Early Assessment Program*

CODE OF REGULATIONS, TITLE 5

850-864 *State assessments*

UNITED STATES CODE, TITLE 20

1412 *Participation of students with disabilities in state assessments*

6311 *Adequate yearly progress*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1 *Standards and assessment*

Management Resources:

CSBA PUBLICATIONS

Supporting Student Achievement: Student Assessment System in Flux, Governance Brief, June 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Assembly Bill 484 Questions and Answers

CALIFORNIA STATE UNIVERSITY PUBLICATIONS

The Early Assessment Program: Handbook for School Site Leaders, 2008

SMARTER BALANCED ASSESSMENT CONSORTIUM PUBLICATIONS

Usability, Accessibility, and Accommodations Guidelines, September 2013

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2000

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

California Learning Resources Network: <http://clrn.org>

California State University, Early Assessment Program: <http://www.calstate.edu/eap>

Smarter Balanced Assessment Consortium: <http://www.smarterbalanced.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

STATE ACADEMIC ACHIEVEMENT TESTS

The Superintendent or designee shall administer the California Assessment of Student Performance and Progress (CAASPP) to all district students at applicable grade levels, except those students exempted by law.

The students of any charter school that receives its state funding allocation through the district shall be tested in coordination with the testing of district students. In addition, the Superintendent or designee shall arrange for the testing of students in any alternative education program or program conducted off campus, including, but not limited to, non-classroom based programs, continuation schools, independent study, community day schools, county community schools, juvenile court schools, or nonpublic, nonsectarian schools. No test shall be administered in a home or hospital except by a test administrator or test examiner. (5 CCR 851)

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 6158 - Independent Study)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6181 - Alternative Schools/Programs of Choice)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

On or before July 1 of each year, the Superintendent or designee shall identify any district school(s) with students who are unable to access the computer-based assessment of a CAASPP test and shall report the number of such students to the test contractor. If available, a paper and pencil version of the assessment may be administered to such students. (5 CCR 853, 857)

On or before July 1 of each year, the Superintendent or designee shall designate a district coordinator who shall oversee all matters related to the testing program and serve as the district representative and liaison with the test contractor and the California Department of Education (CDE). The Superintendent or designee shall also designate a coordinator for each test site. The duties of the district and site test coordinators shall include those specified in 5 CCR 857-858. (5 CCR 857-858)

The Superintendent or designee also shall appoint trained test administrator(s) to administer the CAASPP achievement tests and test examiner(s) to administer the California Alternate Assessments. A test examiner shall be a certificated or licensed employee of the district or county office of education. (5 CCR 850)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

As appropriate, the Superintendent or designee shall assign a specially trained district employee to serve as a test proctor to assist the test examiner; a specially trained district

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

employee, or other person supervised by a district employee, to serve as a translator to translate the test directions into a student's primary language; and a district employee to serve as a scribe to transcribe a student's responses to the format required by the test. A student's parent/guardian or sibling shall not be eligible to be that student's translator or scribe. (5 CCR 850)

All test administrators, test examiners, proctors, translators, scribes, district and site test coordinators, and other persons having access to any of the CAASPP achievement tests and corresponding test materials, assessment technology platform, or tests administered pursuant to Education Code 60640 shall acknowledge the limited purpose of their access to the achievement tests by signing a test security affidavit. In addition, all district and site test coordinators shall sign a test security agreement before receiving any CAASPP achievement tests and corresponding test materials. The test security affidavit and test security agreement shall be those set forth in 5 CCR 859. (5 CCR 850, 859)

Tests Included in the State Assessment System

The district shall administer the following CAASPP assessments: (Education Code 60640; 5 CCR 851.5)

1. The CAASPP achievement tests for English language arts and mathematics in grades 3-8 and 11, except that:

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

- a. Recently arrived English learners, defined pursuant to Education Code 60603 as English learners who are in their first 12 months of attending a school in the United States, shall be exempted from taking the English language arts assessment to the extent allowed by federal law. A recently arrived English learner may be administered the test upon request by his/her parent/guardian.

(cf. 6174 - Education for English Learners)

- b. Students with disabilities who are unable to participate in the English language arts and mathematics assessments, even with the resources described in the section "Testing Variations" below, shall be provided an alternate test when designated in their individualized education program (IEP), as provided in item #3 below.

(cf. 6159 - Individualized Education Program)

(cf. 6164.6 - Identification and Education Under Section 504)

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

2. Science assessments at grades 5, 8, and 10

However, students with disabilities who are unable to participate in the science assessments, even with the resources described in the "Testing Variations" section below, shall be provided an alternate test when designated in their IEP, as provided in item #3 below.

(cf. 6142.93 - Science Instruction)

3. For students with disabilities who are unable to take the tests specified in items #1-2 above, even with appropriate accommodations or other testing resources, and who have an IEP that designates the use of alternate tests at the applicable grade levels:

- a. California Alternate Assessment in English language arts and mathematics for students with significant cognitive disabilities
- b. For the science assessment, either the California Modified Assessment or, for students with significant cognitive disabilities, the California Alternate Performance Assessment

Exemptions

Each year the Superintendent or designee shall notify parents/guardians of their child's participation in the CAASPP and of the provisions of Education Code 60615 related to exemptions from testing. (5 CCR 852)

(cf. 5145.6 - Parental Notifications)

A parent/guardian may annually submit to the school a written request to excuse his/her child from any or all parts of the CAASPP assessments for the school year, and such a request shall be granted by the Superintendent or designee. However, district employees shall not solicit or encourage any exemption request on behalf of any student or group of students. (Education Code 60615; 5 CCR 852)

If a parent/guardian submits an exemption request after testing has begun, any test(s) completed before the request is submitted will be scored and the results reported to the parent/guardian and included in the student's records. (5 CCR 852)

Testing Period

The Superintendent or designee shall establish testing days for district students within the following available testing windows: (5 CCR 855)

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

1. Assessments in English language arts and mathematics shall be administered between the date on which at least 66 percent of the school's or track's annual instructional days for grades 3-8, have been completed and the last day of instruction for the regular annual calendar of the school or track.
2. All science assessments, including CAPA and CMA, shall be administered during an available testing window of 25 instructional days that includes 12 instructional days before and after completion of 85 percent of the school's or track's annual instructional days.
3. Beginning in the 2016-17 school year, the CAA shall be administered during the available testing windows specified in item #1.

Within the above testing windows, the Superintendent or designee may designate one testing period for each school or track or, if a school has multiple tracks, a selected testing period for each track. The district shall not exceed six selected testing periods within the available testing window. The testing period shall be no fewer than 25 consecutive instructional days and may be extended up to an additional 10 consecutive instructional days if still within the available testing window set forth in items #1-4 above. (5 CCR 855)

Students who are absent during testing shall be provided an opportunity to take the tests within the testing window.

Testing Variations

CAASPP achievement tests and the primary language test shall be administered in accordance with the manuals or other instructions provided by the test contractor or CDE except that, as appropriate, the following testing variations may be used: (5 CCR 850, 853-853.8)

1. Universal tools specified in 5 CCR 853.5 may be used with any student.
2. Designated supports specified in 5 CCR 853.5 and, if an English learner, in 5 CCR 853.7, may be used with a student for whom the need has been indicated by an educator or team of educators, with parent/guardian and student input as appropriate, or for whom the need is specified in the student's IEP or Section 504 plan.
3. Accommodations specified in 5 CCR 853.5 may be used with a student with disabilities when included in the student's IEP or Section 504 plan as resources that are regularly used in the classroom for the student's instruction and/or assessment(s). Such accommodations shall be either utilized in the assessment environment or consist of changes in procedures or materials that increase equitable access during the assessment.

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

4. An unlisted resource that has not been specifically identified as an approved universal tool, designated support, or accommodation may be used with a student who has an IEP or Section 504 plan provided that the resource is one that is regularly used in the classroom for instruction and/or assessment and the CDE has approved its use. At least 10 business days prior to the student's first day of CAASPP testing, the district or school site test coordinator may electronically submit a request to the CDE for approval to use that unlisted resource during that year. If the CDE determines that the unlisted resource changes the construct being measured, the unlisted resource may nevertheless be used with the student in order to generate an individual score report even though the student shall not be counted in the participation rate for accountability measures. (5 CCR 853.8)

In the administration of the CAA to a student with significant cognitive disabilities, the student may have all instructional supports that may be used in daily instruction or assessment, including language and physical supports, with the exception of any inappropriate test practices listed in test administration manuals. (5 CCR 850, 853.6)

Report of Test Results

For any state assessments that produce valid individual student results, the Superintendent or designee shall forward or transmit the student's test results to his/her parents/guardians within 20 working days from receipt of the results from the test contractor or, if the district receives the results from the contractor after the last day of instruction for the school year, then within the first 20 working days of the next school year. The report shall include a clear explanation of the purpose of the test, the student's score, and its intended use by the district. An individual student's scores shall also be reported to his/her school and teacher(s) and shall be included in his/her student record. (Education Code 60641; 5 CCR 863)

(cf. 5125 - Student Records)

With parent/guardian consent, the Superintendent or designee may release a student's test results to a postsecondary educational institution for the purposes of credit, placement, determination of readiness for college-level coursework, or admission. (Education Code 60641)

The Superintendent or designee shall present districtwide, school-level, and grade-level results to the Board of Trustees at a regularly scheduled meeting. The Board shall not receive individual students' scores or the relative position of any individual student. (Education Code 49076, 60641)

Regulation
approved:

BERRYESSA UNION SCHOOL DISTRICT
San Jose, California

USE OF COPYRIGHTED MATERIALS

The Board of Trustees recognizes that district staff and students may use a variety of copyrighted materials in the educational program and other district operations. When such materials have not been purchased by the district for the intended use, the Board expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4040 - Employee Use of Technology)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 5131.9 - Academic Honesty)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Any literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual or motion picture, sound, architectural, or other original work shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form.

Before reproducing a copyrighted material for instructional or other district purposes, a staff member shall determine if the material is in the public domain or if the intended use of the material meets the criteria for fair use or another exception pursuant to 17 USC 107-122. If the material is not in the public domain or no recognized exception applies, the staff member shall seek permission of the copyright holder before using the material.

The Superintendent or designee shall inform staff that inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, he/she shall take the safest course and seek permission from the copyright holder to use the material or, if it is impracticable to obtain permission, shall contact the Superintendent or designee for clarification and assistance.

Students shall not copy or distribute copyrighted works to others. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

(cf. 3300 - Expenditures and Purchases)
(cf. 3312 - Contracts)
(cf. 6163.4 - Student Use of Technology)

USE OF COPYRIGHTED MATERIALS (continued)

The Superintendent or designee shall ensure that staff and students receive information and training about copyright laws and the penalties for violating such laws.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Legal Reference:

EDUCATION CODE

35182 Computer software

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

106 Copyright protection

107 Fair use of copyrighted works

110 Limitations on exclusive rights: Exemption of certain performances and displays

504 Penalties for copyright infringement

COURT DECISIONS

Cambridge University Press et al. v. Becker et al., (N.D. Ga. 2012) 863 F.Supp.2d 1190

Campbell v. Acuff-Rose Music, Inc., (1994) 510 U.S. 569

Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171

Management Resources:

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Copyright Law: Do Schools Need a License to Show a Movie?, *School Law Review*, July 2010

U.S. COPYRIGHT OFFICE PUBLICATIONS

Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, rev. 2009

Circular 22: How to Investigate the Copyright Status of a Work, rev. 2013

Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office, rev. 2012

WEB SITES

Copyright Society of the USA: <http://www.csusa.org>

National School Boards Association: <http://www.nsba.org>

University of California, Copyright Education:

<http://copyright.universityofcalifornia.edu/usingcopyrightedworks.html>

U.S. Copyright Office: <http://www.copyright.gov>

USE OF COPYRIGHTED MATERIALS

Prior to reproducing, distributing, displaying, posting, performing, or otherwise using a copyrighted material for an instructional purpose or in the course of other district business, district staff shall determine whether it is necessary to request permission of the copyright holder. Unless the staff member is reasonably certain that the material is in the public domain or the intended use meets the criteria for an exception specified in 17 USC 107-122 and this administrative regulation, he/she shall either obtain permission from the copyright holder or avoid use of the material. In addition, permission of the copyright holder shall be requested whenever district staff intend to publicly disseminate a copyrighted work, such as by posting on the district or school web site or using another method of communications accessible to the public.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4040 - Employee Use of Technology)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 5131.9 - Academic Honesty)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Any reproduction or other use of a copyrighted work shall include the copyright notice.

District staff shall not reproduce and distribute copyrighted works of any type in any of the following circumstances:

1. When the copyrighted work is a "consumable" work such as a workbook, standardized test, answer sheet, or similar material
2. To substitute for the purchase of the work
3. To create, replace, or substitute for anthologies or collective works

Request for Permission to Use Copyrighted Material

As necessary, district staff desiring to use a copyrighted material shall identify and contact the copyright holder to request permission to use the material. The request shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s) or distributor
2. Edition, copyright, and/or production year
3. Exact amount of material to be used, such as the number of lines, pages, or chapters or percentage of the work

USE OF COPYRIGHTED MATERIALS (continued)

4. Nature of the use, such as the course in which it will be used, the grade level of the students, the number of students, and the frequency of use
5. How the material will be reproduced and distributed

If the copyright holder requires a fee to grant permission, district staff shall seek approval from the Superintendent or designee prior to incurring the cost.

Criteria for Fair Use

In considering whether a copyrighted work may be used without the copyright holder's permission on the grounds that the intended use is "fair use" pursuant to 17 USC 107, including reproduction in copies, phonorecords, or any other reproductive form for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, district staff shall consider all of the following factors: (17 USC 107)

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes
2. The nature of the copyrighted work
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole
4. The effect of the use upon the potential market for or value of the copyrighted work

Any determination of fair use shall weigh together all the factors specified in items #1-4 above in addition to any applicable guidelines presented in this administrative regulation for specific types of copyrighted works.

Guidelines for Copying Text

Staff may reproduce text from a copyrighted work from a printed resource, the Internet, or other source, without permission from the copyright holder, under the following conditions:

1. A single copy of a chapter of a book, article from a periodical or newspaper, short story, short essay, short poem, chart, graph, diagram, drawing, cartoon, or picture may be made by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class.
2. Multiple copies, not to exceed one copy per student in a course, may be made by or for a teacher for classroom use or discussion, provided that:

USE OF COPYRIGHTED MATERIALS (continued)

- a. The amount to be copied does not exceed:
 - (1) 250 words for a complete poem or excerpt from a poem
 - (2) 2,500 words for a complete article, story, or essay
 - (3) 1,000 words or 10 percent of the whole (with a minimum of 500 words), whichever is less, for an excerpt from a larger prose work
 - (4) One illustration (e.g., chart, graph, diagram, cartoon, or picture) per book or periodical issue
- b. The copying is for only one course in the school.
- c. With the exception of newspapers and other news periodicals, not more than one work is copied from the same author per term, not more than three works are copied from the same collective work or periodical volume per term, and there are no more than nine instances of multiple copying per course per term.
- d. A delay to request permission from the copyright holder would preclude the most effective instructional use of the material.

Guidelines for Reproducing Sheet and Recorded Music

District staff may reproduce sheet music and recorded music without permission from the copyright holder under the following conditions:

- 1. Emergency copies may be made when purchased copies needed for an imminent performance are not available, provided that replacement copies shall be purchased in due course.
- 2. Single or multiple copies of excerpts of works may be made for academic purposes other than performances, provided that the excerpt does not constitute an entire performable unit (e.g., a section, movement, or aria), no more than 10 percent of the total work is used, and the number of copies made does not exceed one per student.
- 3. Printed copies that have been purchased may be edited or simplified provided that the character of the work is not distorted and lyrics are not added or altered.
- 4. A single copy of a recorded performance by students may be made for evaluation or rehearsal purposes.

USE OF COPYRIGHTED MATERIALS (continued)

5. A single copy of recordings of copyrighted music owned by the district or individual teacher may be made for the purpose of constructing exercises or examinations.

Guidelines for Performing or Displaying Copyrighted Works

In the course of face-to-face instruction in a classroom or similar place devoted to instruction, teachers or students may recite, render, play, dance, act, or show a copyrighted work either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, show its images in any sequence or to make the sounds accompanying it audible, provided that: (17 USC 101, 110)

1. The performance or display is given by means of a lawfully obtained copy of the work.
2. The performance or display is made by, at the direction of, or under the actual supervision of a teacher as an integral part of a class session.
3. The performance or display is directly related and of material assistance to the teaching content of the transmission.
4. The transmission is limited to students enrolled in the course or to Board of Trustees members or employees as part of their official duties or employment.
5. If the work is to be digitally transmitted, the district has applied technological protections that reasonably prevent retention of the work in accessible form for longer than the class session and the unauthorized further dissemination of the work.

Any use of a motion picture or other audiovisual work outside the curriculum, such as for entertainment, a school or class reward, or a fundraiser, shall require permission from the copyright holder or a special viewing license.

Guidelines for Recording Broadcast Programming

Teachers may make recordings of television programs for use in a classroom for educational purposes under the following conditions:

1. Only programs provided to the public free of charge may be recorded and shown. Any use of programming from paid television services shall require permission of the copyright holder.

USE OF COPYRIGHTED MATERIALS (continued)

2. The recording may be shown only during the first 10 consecutive school days after it is made. It may be used once by an individual teacher in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary.
3. A limited number of copies may be reproduced from each recording to meet the legitimate needs of the teacher. Each copy shall be subject to all the provisions governing the original recording.
4. The recording may be retained for 45 calendar days after it is made and then shall be erased or destroyed. However, after the first 10 consecutive school days, the recording may only be used for purposes of determining whether or not to include the broadcast program in the teaching curriculum. If the teacher decides to keep the program for use in the curriculum, he/she shall request permission from the copyright owner.
5. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered.

Guidelines for Copying Computer Programs or Software

District staff shall observe all licensing agreements between vendors and the district, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single computer program or software, the district shall not make multiple copies.

Copies of district-owned software may be made under either of the following conditions: (17 USC 117)

1. The copy is needed as an essential step in using the computer program with a particular machine.
2. The copy is used for archival or "backup" purposes only. This copy may be held only as a file copy and must be destroyed in the event that continued possession of the program ceases to be rightful, unless the copyright owner authorizes its sale, lease, or transfer as part of the sale, lease, or transfer of the original program.