



RIGHTS AND RESPONSIBILITIES

2024-2025

Information for Parents, Guardians and Students

Board of Education

Brian Swanson, President

Elliott Hazen, Clerk

Jennifer McNary, Member

Laura Ottmar, Member

Carolyn Swanson, Member



PACIFIC GROVE UNIFIED SCHOOL DISTRICT

435 Hillcrest Avenue Pacific Grove, CA 93950

Dr. Linda Adamson

Superintendent

(831) 646-6520

Fax (831) 646-6500

ladamson@pgusd.org

Joshua Jorn

Assistant Superintendent

(831) 646-6509

Fax (831) 646-6582

josh.jorn@pgusd.org

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Dear Parents or Guardians,

I hope this letter finds you well and excited about the prospect of a new school year. As we prepare to embark on another academic year, I am delighted to extend a warm welcome to all parents and guardians within our school district.

At the outset of each school year, it's essential to ensure that everyone is well-informed about their rights and responsibilities within our educational community. To facilitate this process, we are pleased to present the annual Rights and Responsibilities document.

This document serves as a comprehensive guide outlining the rights and responsibilities of students, parents, and guardians within our school district. It encapsulates our commitment to fostering a safe, inclusive, and welcoming learning environment for all members of our community.

Within the Annual Rights and Responsibilities document, you will find valuable information pertaining to:

- Student rights and responsibilities, including conduct expectations and disciplinary procedures.
- Parent/guardian rights and responsibilities regarding involvement in their child's education, communication with teachers and staff, and access to school resources.
- District policies and procedures related to attendance, grading, safety protocols, and more.

We encourage all parents and guardians to take the time to review this document carefully. It serves as a vital reference throughout the academic year, helping to ensure clarity and transparency in our educational practices.

Should you have any questions or require further clarification on any aspect of the annual Rights and Responsibilities, please do not hesitate to reach out to your child's school administration or our district office. We are here to support you and address any concerns you may have.

In closing, I would like to thank you for your partnership in your child's education. Through our work together, we are better able to create a **"Culture of We"** that ensures a nurturing and enriching environment where every student can thrive and achieve their full potential.

With My Warmest Regards,

Dr. Linda Adamson
Superintendent

Please sign below as your acknowledgment of receipt of this information

Signature

Date

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PARENTAL RIGHTS AND RESPONSIBILITIES

The Governing Board recognizes that parents/guardians of District students have certain rights as well as responsibilities related to the education of their children. (Refer to [Board Policy 5020](#) and [Regulation 5020](#). District board policies and regulations can be found the here: [Board Policy Manual](#).)

Parents/guardians shall have the opportunity to work with schools in a mutually supportive and respectful partnership and to help their children succeed in school. (Education Code §51100)

The Board believes that the education of the District's students is a shared responsibility. The Superintendent or designee shall work with parents/guardians to determine appropriate roles and responsibilities of parents/guardians, school staff and students for continuing the intellectual, physical, emotional and social development and well-being of students at each school site, including the means by which the schools and parents/guardians can help students achieve academic and other standards of the school.

Within this framework, the school's primary responsibility shall be to provide a high-quality curriculum and instructional program in a supportive and effective learning environment that enables all students to meet the academic expectations of the school.

The District encourages parents/guardians to support the learning environment of their children by monitoring attendance.

The following is a list of the rights you have as a parent or guardian of a child in public school. The rights listed are granted by federal or state laws and regulations. You have a right to review school rules regarding student discipline. If you wish to do so, please contact the school office. (Education Code §§48980, 35291)

NEW FOR 2024:

- AB 230: Free and Accessible Supply of Menstrual Products in All School Restrooms (see page 12)
- AB 1651: The Munoz Student Allergy Framework for Emergencies (SAFE) Act (see page 10)
- SB 234: Opioid Antagonist on Premises of Stadiums, Concert Venues, and Amusement Parks (see page 12)
- AB 889 Dangers Associated with Using Synthetic Drugs Not Prescribed by a Physician (see page 12)
- AB 373 Foster Student Enrollment in Intersession Programs (see page 32)
- AB 1503 Full Day Absence for Religious Retreat (see pages 3 and 58)
- SB 350 Absences for Funeral and Grief Support (see page 58)

A. STUDENT ATTENDANCE

You have the right as a parent:

1. To obtain a copy of the Governing Board's policies and regulations on student discipline. (Education Code §35291)
2. To be informed that you may be required to attend your child's class if he or she is suspended for unruly or disruptive conduct. (Education Code §§48900.1, 48914)
3. To apply for enrollment of your child in the district in which you are employed for at least 20 hours per week; however, the district may have the right to deny the application under certain conditions. (Education Code §48204(b).)
4. Parents and Students Living at Parent's Place of Employment for a Minimum of 3 Days During the School Week. Parents may apply for enrollment of their child in a school district in which the parent is employed, and where the parent and child live at the parent's place of employment for a minimum of 3 days during the school week. (Education Code §48204(a)(7).)
5. Children of Military Service Members - Residency
A student complies with a school district's residency requirements for school attendance if the student's parent is transferred or is pending transfer to a military installation within the state while on active military

duty pursuant to an official military order. School districts must accept applications by electronic means for enrollment, including enrollment in a specific school or program within the District, and for course registration. The parent must provide proof of residency in the District within 10 days after the published arrival date provided on official documentation. (Education Code §48204.3)

6. Students in Active Duty Military Families / Residency Retention and Matriculation

A student living in the household of an active duty military service member must be allowed to continue attending the student's school of origin for the remainder of the school year if the family moves.

A student from an active duty military family who is transitioning between school grade levels must be allowed to continue in the school district of origin and in the same attendance area of his/her school of origin. If the student is transitioning to middle school or high school, and the school designated for matriculation is in another school district, the local educational agency must allow the student to continue to the school designated for matriculation in that school district. The new school must immediately enroll the student, even if the child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended, or if the student is unable to produce clothing or records normally required for enrollment.

If the parent/guardian's military service ends during the school year, then the student is allowed to stay in his/her school of origin for the remainder of the school year if s/he is in grades 1-8, or through graduation if the student is in high school.

7. Residency Retention for the Students of Detained or Deported Parents. Students retain residency in a school district, regardless of the students' current residency, when both of the following requirements are met:

- a) The student's parent or guardian has departed California against his or her will, and the student can provide official documentation evidencing the departure; and
- b) The student moved outside of California as a result of his or her parent or guardian leaving the state against his or her will, and the student lived in California immediately before moving outside the state. The student must provide evidence of enrollment in a California public school immediately before moving outside the state.

Deported parents may designate another adult to attend school meetings and to serve as an emergency contact. No charges or fees of any kind, as allowed under Education Code section 48050, may be required for admission or attendance in these circumstances.

This law applies to parents who are: (1) in the custody of a government agency and are transferred to another state; (2) subject to a lawful removal order and who were removed or were permitted to leave California voluntarily before being removed; and (3) subject to any additional circumstances consistent with these purposes, as determined by the school district. (Education Code §48204.4)

8. Residency Retention for Migratory Children. Currently migratory children, who are enrolled in a school district due to a parent's or immediate family member's temporary or seasonal employment in an agricultural or fishing activity, as defined by Education Code section 54441, must be allowed to continue in their schools of origin, regardless of any change of residence during that school year, for the duration of their status as migratory children. When a student's status as a migratory child changes during the school year, the school district must: (1) allow K-8th graders to continue in their schools of origin for the remainder of that school year; and (2) allow 9-12th graders to continue in their schools of origin through graduation.

Migratory children and their parents/guardians must be informed of the impact that remaining in their schools of origin will have on their eligibility to receive migrant education services.

9. Victims of Bullying – Transfer Rights

School districts must approve the request of a bullying victim, as defined, to transfer to another school within the district. If the requested school is at capacity, the school district must accept a request for an alternate site. If the school district of residence has only one school available, the school district of residence must honor the student's interdistrict transfer request if the school district of proposed enrollment approves the transfer. (Education Code §46600)

10. To request information about enrollment in alternative schools. (See attached Education Code §58501) Refer to Regulation 5116.1 and Board Policies 5117 in the Attachments section.
11. To excuse a child from school to attend religious exercises or classes upon written notice. Such absences may not exceed one school day per semester. An excused child must nevertheless attend his/her attendance at the minimum level of school days required for his/her grade. (Education Code §46014) Refer to Board Policy 5113 and Regulation 5113 in the Attachments section.
12. To excuse your child from school for justifiable personal reasons upon written notice and approval by the Principal or designated representative. Personal reasons may include attendance at a religious retreat, not to exceed one school day per semester and the observance of a religious holiday or ceremony. No child may have his/her grade reduced or lose academic credit for any absence(s) excused pursuant to Education Code section 48205 when missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time. (See attached Education Code §48205) Refer to Regulation 5113 and Policy 6154 in the Attachments section.
13. To receive the District's written policy on sexual harassment as it relates to students. (Education Code §231.5) Refer to Board Policies 5145.3 and 5145.7 in the Attachments section.
14. To receive notification of all current statutory attendance options and local attendance options. Parents will receive a written description of all options for meeting residency requirements for school attendance, all programmatic options offered within the local attendance areas, and any special programmatic options available on both an inter-district and intra-district basis. The notice will include a description of the procedure for application for alternative attendance areas or programs, an application form for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. (Education Code §48980(h) and (i).)
15. To receive notification that, notwithstanding Education Code §48200, a pupil with a temporary disability who is in a hospital or other residential health facility, excluding a state hospital, which is located outside of the school district in which the pupil's parent or guardian resides shall be deemed to have complied with the residency requirements for school attendance in the school district in which the hospital is located, pursuant to Education Code § 48207. Once the parent has notified the District in which the hospital is located of the student's presence in qualifying hospital, the District has five working days to notify the parent if individualized instruction shall be made available. If the determination is positive, individualized instruction shall commence within five days.
16. To be notified of minimum days or staff development days. The following minimum days have been established for the 2024-25 school year (for students only): November 27, 2024, December 20, 2024, April 11, 2025, and May 30, 2025.
17. Attendance and participation in class are essential if the student is to gain the maximum benefit of the educational program. Regular and punctual school attendance of students is expected, encouraged and will be enforced. School attendance is an area which requires mutual cooperation between the schools, the parents and the student so that the whereabouts of each student will be known at all times during the school day. Education Code §48200 requires full time student attendance for all children between ages 6 and 18. The California Education Code and the Welfare and Institutions Code provide that legal action may be taken against a student and/or parent when a student is declared a habitual truant. (Education Code §48260 et seq.).

- First declaration of a legal truant: A student who is absent without valid excuse on three or more days or tardy in excess of 30 minutes on three or more days in a school year.
- Second declaration of a legal truant: A student, once reported as a legal truant, who is absent without a valid excuse on one or more days or is tardy on one or more days in a school year.
- Declaration as a habitual truant: A student who has been declared to be a legal truant on three or more occasions in a school year. (Education Code §48262)

When a student is declared a habitual truant, he/she will be referred to the Monterey County District Attorney's Office. (Education Code §48263)

Verification of student absences is accepted only from parents or guardians. Excessive excused absences will also be monitored, as attendance, excused or unexcused, interferes with your child's educational progress. Excused absences exceeding 10% of the school year will be monitored and may require doctor verification of medical difficulty and needs. If your child is going to miss school for a medical reason that exceeds two weeks they may be eligible for home-hospital instruction. Your child may be eligible for home independent study if he/she will be absent for reasons other than illness. It is the parent/guardian's obligation to notify the District of their child's need for individualized instruction in the home, in a hospital or other residential health facility.

B. CAMPUS SECURITY

The Board believes that reasonable use of surveillance cameras will help the District achieve its goals for campus security. In consultation with the safety planning committee and relevant staff, the Superintendent or designee shall identify appropriate locations for the placement of surveillance cameras. Cameras shall not be placed in areas where students, staff, or community members have a reasonable expectation of privacy. Refer to [Board Policy 3515](#).

Audio and video surveillance systems may be installed and used on school buses to monitor student behavior while traveling to and from school and school activities. Refer to [Board Policy 5131.1](#) and [Regulation 5131.1](#). The content of any recording may be a student record and may only be accessed in accordance with the district's policy and administrative regulation. Such recordings may be used in student disciplinary proceedings or referred to local law enforcement, as appropriate. Refer to [Board Policy 5125](#) and [Regulation 5125](#).

C. STUDENT DISCIPLINE

1. Students are expected to respect themselves, respect others, and respect property. Therefore, students should be aware of possible consequences of their behavior. Disciplinary action taken by school officials is a direct consequence of unacceptable behavior by a student. Rules and regulations are established to maintain an atmosphere conducive to learning. Students who fail to comply with these rules and regulations will be counseled, reprimanded, suspended and/or expelled and/or arrested, as the laws are applied and dependent on the situation. All students shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools. (Education Code §48908)
2. The Board desires to prevent bullying by establishing a positive, collaborative school climate and clear rules for student conduct. The district may provide students instruction in the classroom or other school settings that promotes communication, social skills, and assertiveness skills and may involve parents/guardians, staff, and community members in the development of strategies to prevent and respond to bullying.
 - a. School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies. Parents/guardians and students may be provided with similar information.
 - b. Students may submit a verbal or written complaint of conduct they consider to be bullying to a teacher or administrator and may also request that their name be kept in confidence. The

Superintendent or designee may establish other processes whereby students may submit anonymous reports of bullying.

- c. When a student is suspected of or reported to be using electronic or digital communications to engage in cyberbullying against other students or staff or to threaten district property, the investigation shall include documentation of the activity, identification of the source, and a determination of the impact or potential impact on school activity or school attendance. Students shall be encouraged to save and print any messages sent to them that they feel constitutes cyberbullying and to notify a teacher, principal, or other employee so that the matter may be investigated.
 - d. Cyberbullying conducted using district-owned equipment or on school premises, as well as off-campus cyberbullying that impacts school activity or school attendance, may be subject to discipline in accordance with district policies and regulations. If the student is using a social networking site or service that has terms of use that prohibit posting harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed. *Refer to [Board Policy 5131](#), [Policy 5131.2](#) and [Regulation 5131.2](#), [Policy 5131.8](#), and [Policy 6163.4](#) in the Attachments section.*
3. Students and parents may report incidents of misconduct, bullying and sexual harassment by submitting to a teacher or administrator a verbal or written complaint of conduct they consider to be bullying or any disrespectful behavior. Complaints of bullying or harassment shall be investigated and resolved in accordance with site-level grievance procedures. The Superintendent or designee shall work with the student and family to determine whether it is in the best interest of the student to maintain anonymity during the investigation. *Refer to [Board Policy 5131](#), [Policy 5131.2](#) and [Regulation 5131.2](#), and [Policy 5145.7](#) and [Regulation 5145.7](#) in the Attachments section.*
4. Districts may regulate the possession or use of any cell phones, pagers or electronic signaling device while pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees (Education Code §48901.5). *Refer to [Board Policy 5146](#).*
5. The Pacific Grove Unified School District is committed to maintaining an orderly, purposeful and safe school environment free from weapons, drugs, tobacco, vandalism, and the threat of physical harm. We will take immediate action against students who threaten physical harm to anyone through the possession of, use of, or threatened use of weapons. Students will be immediately reported to law enforcement and suspended or expelled, in compliance with Board Policy and the law. Similar disciplinary steps will be taken in cases involving the sale of controlled substances at school, on the way to and from school, while going to or coming from a school sponsored activity, while at any school sponsored event and during lunch whether on or off school grounds. Such unlawful behavior will be reported to the police, followed by suspension and a recommendation for expulsion, as required by Board Policy and California law. *Refer to Board Policies [3513.3](#) and [5144.1](#) in the Attachments section.*
6. A pupil may not be suspended from school or recommended for expulsion unless the superintendent or the Principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to one or more of the following subdivisions:
 - a. Caused, attempted to cause, or threatened to cause physical injury to another person; or willfully used force or violence upon the person of another, except in self-defense.
 - b. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the Principal or the designee of the Principal.
 - c. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section §11053) of Division 10

of the Health and Safety code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

- d. Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- e. Committed or attempted to commit robbery or extortion.
- f. Caused or attempted to cause damage to school property or private property.
- g. Stolen or attempted to steal school property or private property.
- h. Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, e-cigarettes, vaping devices and betel. However, this action does not prohibit use or possession by a pupil of his or her own prescription products.
- i. Committed an obscene act or engaged in habitual profanity or vulgarity.
- j. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in §11014.5 of the Health and Safety Code.
- k. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- l. Knowingly received stolen school property or private property.
- m. Possessed an imitation firearm. As used in this section “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- n. Committed or attempted to commit a sexual assault as defined in §261, 266c, 286, 287, 288, or 289, or former section 288a of, the Penal Code or committed a sexual battery as defined in §243.3 of the Penal Code.
- o. Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness or both.
- p. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- q. Engaged in, or attempted to engage in, hazing as defined in Education Code §48900(q).
- r. Engaged in an act of bullying as defined in Education Code §48900(r).
- s. A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent or Principal or occurring within any other school district. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

- 1) while on school grounds.
 - 2) while going to or coming from school.
 - 3) during the lunch period whether on or off the campus.
 - 4) during, or while going to or coming from a school sponsored activity.
- t. A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to the provisions of this section. Except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).
 - u. As used in this section, "school property" includes, but is not limited to, electronic files and databases.
 - v. A Superintendent or Principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.
 - w. (1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.
7. Mandatory Suspension
The Principal or Superintendent of Schools shall immediately suspend, pursuant to §48911, and recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
- a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior or written permission to possess the firearm from a certificated school employee, which is concurred in by the Principal or the designee of the Principal. This subdivision applies to an act of possessing firearm only if the possession is verified by an employee of a school district.
 - b. Brandishing a knife at another person.
 - c. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Health and Safety Code.
 - d. Committing or attempting to commit a sexual assault as defined in subdivision (n) of § 48900 or committing a sexual battery as defined in subdivision (n) of §48900.
 - e. Possession of an explosive.
8. Mandatory Expulsion
Education Code §48915(a): Except as provided in subdivisions (c) and (e), the Principal or the Superintendent of Schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the Principal or Superintendent finds that the expulsion is inappropriate, due to the particular circumstance or that an alternative means of correction would address the conduct:
- a. Causing serious physical injury to another person except in self-defense.
 - b. Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil.

- c. Unlawful possession of any controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Healthy and Safety Code, except for: (1) the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or (2) the possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed by a physician for the pupil.
 - d. Robbery or extortion.
 - e. Assault or battery, as defined in §240 and 242 of the Penal Code, upon any school employee. (Education Code §48915(a).)
9. If a school official releases your child from school to a peace officer for the purpose of removing him/her from the school premises, the school official shall take immediate steps to notify you or a responsible relative of your child, except when a student has been taken into custody as a victim of suspected child abuse. In those cases, the peace officer will notify the parent or guardian. (Education Code §48906)
 10. Parents or guardians are liable for all the damages caused by the willful misconduct of their minor children which result in death or injury to other students, school personnel, or damage to school property. Parents are also liable for any school property loaned to the student and willfully not returned. Parents' or guardians' liability may be as much as \$23,900 in damages and another maximum of \$23,900 for payment of a reward, if any. (Education Code §48904) The School District may withhold the grades, diplomas, or transcripts of the student responsible until such damages are paid or the property returned or until completion of a voluntary work program in lieu of payment of money. Education Code §48904, Civil Code § 1714.1) If your child commits an obscene act or engages in habitual profanity or vulgarity, disrupts school activities, or otherwise willfully defies the authority of school personnel, and is suspended for such misconduct, you may be required to attend a portion of a school day in your child's classroom. (Education Code §48900.1)
 11. Possession of a laser pointer by any student is prohibited on any elementary or secondary school premise, unless possession is for valid instruction. The beam of a laser pointer is prohibited from being directed into the eyes of another or into a moving vehicle or into the eyes of a guide dog. (Penal Code 417.27)
 12. The school Principal or designee may search the person of a student, the student's locker, backpack or purse if there is a reasonable suspicion to believe the student may have a concealed weapon, explosives, alcohol, narcotics, stolen property, or contraband. (U.S. Supreme Court Case: New Jersey v. T.L.O. (1985) 469 U.S. 325)
 13. The District may use surveillance footage, if applicable, in connection with student discipline and in accordance with District policy.

D. STUDENT HEALTH

You have the right as a parent:

1. To be informed that school authorities will notify students in grades 7 to 12 that they may be excused from school for the purpose of obtaining confidential medical services without your consent. (Education Code §46010.1)

2. To be informed that your child must be immunized against certain diseases before being admitted to school, unless exempted for medical or religious reasons. However, where there is a good reason to believe that your child is suffering from a recognized contagious or infectious disease, your child will be sent home and will not be permitted to return until school authorities are satisfied that any contagious or infectious disease does not exist. (Education Code §§49451 and 48216)

Religious and Personal Beliefs Exemptions: January 1, 2016 was the deadline for parents to exempt their children from required immunizations based on their religious or personal beliefs. Students who had a signed waiver based on religious or personal beliefs on file by January 1, 2016, are exempt from the immunization requirement until they complete the “grade span” they were in as of January 1, 2016. Grade spans are defined as: (1) birth through preschool, (2) Kindergarten through 6th grade, and (3) 7th through 12th grade. Students who entered the District for the first time, or who advanced to 7th grade, after July 1, 2016 are no longer be exempt from immunizations based on religious or personal beliefs.

Medical Exemptions: Students who have a medical exemption issued before December 31, 2020 will be allowed continued enrollment until they enroll in the next grade span. As of January 1, 2021, the District will only accept medical exemptions that are submitted on the California Department of Public Health’s standardized, statewide medical exemption certification form. (Health and Safety Code §§120370(a)(2) and 120372(a).)

3. To consent to the immunization of your child whenever the immunization of children is permitted at the District. (Education Code §49403)
4. **Immunization Information Sharing (AB 1797):** Immunization information may not be shared if the parent/guardian refuses to allow the sharing of immunization information pursuant to Health and Safety Code section 120440 (e). Under the Education Code, parents must affirmatively consent to schools sharing immunization information, except if there is an emergency and the immunization information is needed to protect the health or safety of a student or other persons. (Ed. Code §§49075 and 49076, subd. (a)(2)(A).)

With parental consent, the following information about your child will be shared with the local health department and the State Department of Public Health’s California Immunization Registry (CAIR)
<https://www.cdph.ca.gov/CAIR> webpage, Phone: (800) 578-7889, Fax: (888) 436-8320, Help desk: CAIRHelpdesk@cdph.ca.gov;

- Student and parent’s name
- Student’s date of birth, place of birth, gender, race, and ethnicity
- Types and dates of immunizations received
- Manufacturer and lot number for each immunization received
- Adverse reactions to immunizations received
- Other nonmedical information necessary to establish the student’s unique identity and record
- Tuberculosis screening results
- Information needed to comply with state immunization requirements for school attendance (Health and Safety Code §120440, subd. (e)(1).)

The shared information will be treated as confidential medical information and shall only be shared upon request with health care providers, schools, childcare facilities, county human services agencies, health care plans, and other designated agencies. (Health and Safety Code §120440, subd. (e)(2).)

Parents and Guardians have the right to:

- Consent to having their child’s **school** share their child’s immunization information with the CAIR by filling out the [School Consent to Share Form](#) and returning it to their child’s school;
- Examine any of their child’s immunization-related information or tuberculosis screening results and to correct any errors. (Health and Safety Code §120440, subd. (e)(3).)
- Refuse to permit the **CAIR** to share their child’s immunization information by completing and submitting the [Decline to Share or Start Sharing Immunization Request \(Lock/Unlock\) form](#) by e- mail to: CAIRHelpDesk@cdph.ca.gov or fax printed forms to 1-888-436-8320.

For more information, contact the [CAIR HelpDesk@cdph.ca.gov](mailto:CAIR.HelpDesk@cdph.ca.gov) or by phone: 1-800-578-7889. (Health and Safety Code §120440, subd. (e)(4) and (f)(1).); and

- Refuse to receive immunization reminder notifications. (Health and Safety Code §120440, subd. (e)(4).)

More information about these rights and the California Immunization Registration (CAIR) can be found here: [Frequently Asked Questions about Immunization Registries \(Parents\)](#).

5. To request assistance in administering medication to your child during school hours. Such assistance requires your written authorization and that of a physician, surgeon or physician assistant detailing the method, amount and time schedules for taking the medication. (Education Code §49423)
6. Auto-Injectable Epinephrine / Inhaled Asthma Medication. You may provide a written statement to the school district allowing your child to carry and self-administer auto-injectable epinephrine and/or inhaled asthma medication. A physician or surgeon's statement confirming that your child is able to self-administer the medication and detailing the name of the medication, the method, amount and time schedules for administration must also accompany the request. In the case of auto-injectable epinephrine, a physician's assistant may also provide this written statement. The parent, foster-parent or guardian must also: (1) consent in writing to the self-administration, (2) provide a release for the school nurse or other designated school personnel allowing them to consult with the student's physician and (3) agree to release the district and school personnel from civil liability in the event of an adverse reaction to the medication. These written statements must be provided to the school at least annually or more frequently if the medication, dosage, frequency of, or reason for, the administration changes. Students may be subject to disciplinary action pursuant to Education Code section 48900 for using auto-injectable epinephrine or inhaled asthma medication in a non-prescribed manner. (Education Code §§48980, 49414, 49423, and 49423.1.)

To be notified in accordance with **The Munoz Student Allergy Framework for Emergencies (SAFE) Act** which requires districts to provide emergency epinephrine auto-injectors that will be stored in accessible locations, including the school nurse/health aide or trained personnel, to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. (Education Code §49414)

7. Anti-Seizure Medication. Parents of a student diagnosed with seizures, a seizure disorder, or epilepsy who has been prescribed an emergency anti-seizure medication may request that their student's school have one or more of its employees receive voluntary training in the administration of the medication in the event that the student suffers a seizure when a school nurse is not available. Upon receipt of the parent's request, the school district must notify the parent that his or her child may qualify for an individualized education program or a Section 504 plan.

Parents must provide a seizure action plan pursuant to Ed. Code section 49468.3 before an emergency anti-seizure medication or therapy treatment may be administered.

8. To exempt your child from any physical examination upon your written notification. However, where there is a good reason to believe that your child is suffering from a recognized contagious or infectious disease, your child will be sent home and will not be permitted to return until school authorities are satisfied that any contagious or infectious disease does not exist. (Education Code §49451)
9. To purchase insurance for medical and hospital services for your child's injuries while participating in athletic activities since the District does not provide such medical and hospital services. (Education Code §49472)
10. To be informed of your obligation to notify appropriate school personnel (e.g., school nurse or designated employee) of your child's continuing medication regimen for a non-episodic condition. With your consent, the school nurse may communicate with your child's physician and may counsel school personnel regarding the possible effects of the drug on the child's physical, intellectual, and social behavior, as well as possible behavioral signs and symptoms of adverse side effects, omission, or overdose. (Education Code §49480)
11. To obtain information and apply for participation in the Free and Reduced Lunch Program offered by the District to provide nutritional meals to needy pupils. (Education Code §49510 et seq.)

12. **Child Nutrition Program Complaints:** Complaints related to Child Nutrition Programs established pursuant to the National School Lunch Program, Summer Food Service Program, Child and Adult Care Food Program, Special Milk Program, School Breakfast Program, and Food Distribution Program are no longer processed through the District's Uniform Complaint Procedures. Instead, complaints must be processed through the existing procedures outlined in federal regulations and new, related state regulations. A complaint must be submitted within one year of the date of the alleged violation, and may be filed by phone, e-mail, or letter. Please see California Code of Regulations, title 5, sections 15580 – 15584 for more information. (5 CCR §§15580 - 15584)
13. **Student Food Allergies / California Food Allergy Resource Webpage:** For information about protecting your student with food allergies, the California Department of Education is creating a California Food Allergy Resource internet webpage, which when available, will be found here:
<https://www.cde.ca.gov/ls/nu/sn/mgmb.asp>
14. To be notified in accordance with the requirements of the Healthy Schools Act of 2000 of all pesticides the District expects to apply during the year.
15. State law requires that for each child enrolling in the first grade, the parent must present a certificate, signed by a physician, verifying that the child has received a physical examination within the last 18 months. If your child does not receive this exam, you must file with the School District a waiver stating the reasons you are unable to obtain such services. You must understand that your child may be sent home if you fail to provide the certificate or waiver, or if your child is suspected to be suffering from a contagious disease. You may find it convenient to have your child immunized at the same time that the physical examination is conducted.
16. All students must have an oral assessment by May 31st of their kindergarten or first grade year, whichever is his or her first year of public school. The assessment must be performed by a licensed dentist or other licensed or registered dental health professional. Parents may request a waiver in writing.
17. Anything to the contrary withstanding, the Governing Board of our school district will cooperate with the local health officer in measures necessary for the prevention and control of communicable diseases in school age children. For that purpose, the Board may use any funds, property and personnel of the District, and may permit a licensed physician and surgeon to administer an immunizing agent to any student whose parents have given written consent to the administration of such an immunizing agent. (Education Code §49403)
18. Between grades 6 and 8, your child may be screened for scoliosis (curvature of the spine), unless you submit a written denial of consent. (Education Code §49452.5)
19. Your child's vision will be checked by an authorized person between grades Kindergarten through 8, unless you present to the school a certificate from a physician or optometrist verifying prior testing or a letter stating it violates your faith in a recognized religious belief. (Education Code §§49455 and 49422)
20. The School District is required to provide for the testing of the sight and hearing of each student enrolled unless you submit a written denial of consent. (Education Code §49452)
21. Please see the attached memo from Director of Facilities and Transportation, regarding the annual Pest Control Procedure and Notification. Please contact the Director at (831) 646-6537 if you wish to receive written notification at least 72 hours prior to the application of an individual pesticide at your school. Prior to the application of any pesticide, the District will post a warning sign at the area to be treated at least 24 hours prior to the pesticide application and such sign will remain posted for at least 72 hours after the application. In the event of an emergency condition, advance notification and prior sign posting may not be feasible, but a warning sign will be posted immediately upon application of the pesticide. For additional information regarding pesticides and pesticide use, please visit the web site for the State of California's Department of Pesticide Regulation at <http://www.cdpr.ca.gov>. (Education Code §§48980.3 and 17612)
22. Student mental health services are available through the Pacific Grove Unified School District by contacting:
Director of Student Services, 435 Hillcrest Avenue, Pacific Grove, CA 93950
(831) 646-6523

23. **Type 1 Diabetes Information - Parent Notification:** The CDE's Type I Diabetes Information sheet is located in the Attachments section and may be found here:
<https://www.cde.ca.gov/ls/he/hn/type1diabetes.asp>
24. To be informed that free and accessible supply of menstrual products will be provided in all school restrooms grades 3-12 (Education Code §35292.6)
25. To be informed of the dangers associated with the use of synthetic drugs, particularly those that are not prescribed by a physician. Synthetic drugs, such as fentanyl, pose a significant risk to individuals, including severe health complications and even death.

It is essential for parents and guardians to be aware of the potential dangers that synthetic drugs present to our youth. These substances are often produced illegally and may contain harmful chemicals. Most often these are found in counterfeit pills that may appear similar to legitimate medications.

As a local education agency, it is our responsibility to ensure that parents and guardians are informed about these risks so that together, we can take proactive measures to protect our students. We encourage you to have open and honest conversations with your children about the dangers of synthetic drugs and to help us educate them about making safe and responsible choices. (Education Code §48985.5)

26. To be notified in accordance with **SB 234 Opioid Antagonist on Premises of Stadiums, Concert Venues, and Amusement Parks** that unexpired doses of naloxone hydrochloride or any other opioid antagonist will be on the premises at stadiums and concert venues. (Education Code §11871)

E. STUDENT RECORDS

You have the right as a parent:

1. To be notified of the District's policies concerning student records maintained by the District. (Education Code §49063; 34 CFR Part 99.7) *Refer to Board [Policy 5125](#) and [Regulation 5125](#) in the Attachments section.*
2. To know that your child's right to privacy prohibits the release of confidential information in your child's records to individuals other than yourself, your child (if 16 or older or having completed the 10th grade), or certain authorized individuals without a court order or parental consent. (Education Code §49060 et seq.)
3. The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. These rights are:
 - a. The right to inspect and review the student's education records within 45 days of the day the school receives a request for access.

Parents or eligible students should submit to the school Principal [or appropriate school official] a written request that identifies the record(s) they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

- b. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate.

Parents or eligible students may ask the school to amend a record that they believe is inaccurate. They should write the school Principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it is inaccurate. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

- c. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by

the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

- d. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the *School District* to comply with the requirements of FERPA. Contact:
 Student Privacy Policy Office
 U.S. Department of Education
 400 Maryland Avenue, SW
 Washington, DC 20202
 1-800-872-5327
4. To prohibit the release of directory information on your child when you notify the District in writing not to release such information on your child by using the appropriate [PGUSD Directory Information Opt-Out Form](#). The District has two opt-out forms: one specific to high school students; and one for elementary and middle school students, available on the District website at [pgusd.org](#). The Directory Information Opt-Out Forms will also be included in the online registration packet. Otherwise, the District may release directory information as to any pupil or former pupil, provided that annual notice is given of the categories of information to be released and of the recipients of said information. Directory information includes one or more of the following items: student's name; address; date of birth; major field of study; participation in officially recognized activities and sports; the weight and height of members of athletic teams; dates of attendance degrees and awards received; and most recent previous public or private school attended by the student. Directory information released to PTA's, PG Pride, Breakers Club, law enforcement agencies, military recruiters and institutions of higher education may include a student's name, address and phone number. Parents may request in writing that directory information not be released. To request the District withhold directory information, parents must complete the PGUSD Directory Information Opt-Out Form, and turn it into your child's school office within 10 days of registering for school. (Elementary and Secondary Education Act §9528(a)(2); 34 CFR §99.37(a)(3), Education Code §§49063 and 49073)
5. Homeless Students / Release of Directory Information. Written consent of the parent or that of the student, if accorded parental rights, must be obtained before directory information pertaining to a homeless student may be released. (Education Code §49073(c) and 20 USC §1232g)
6. Transfer of Suspension and Expulsion Disciplinary Records. The District will forward student records, including suspension and/or expulsion disciplinary records, to other schools that have requested the records and in which the student seeks or intends to enroll. (FERPA, 34 CFR Parts 99.7 and 99.34(a)(ii).)

F. STUDENT INSTRUCTION

You have the right as a parent:

1. To substantiate your child's moral objection to dissecting, destroying or otherwise harming animals as part of an education project. Teachers of courses utilizing dead animals or animal parts will inform students of their right to object to participate in a particular project involving the harmful or destructive use of animals.

Your written note attesting to your child's objection may, at the teacher's option, entitle your child to participate in an alternative education project or to be excused from the project altogether. (Education Code §32255, et seq.)

2. To have your child with a temporary disability receive individual instruction if attendance at school is impossible or inadvisable. Individual instruction may be provided at your child's home, in a hospital or other residential health facility.

“Temporary disability” means a physical, mental or emotional disability incurred while a student is enrolled in regular day classes or an alternative education program to which the student can reasonably be expected to return. “Temporary disability” does not include a disability that would qualify a student as a “student with exceptional needs” under Education Code section 56026.

Individual instruction in a hospital, residential health facility, or in a student’s home must commence no later than five working days after a school district determines that the student shall receive this instruction.

When a student receiving individual instruction is well enough to return to school, s/he must be allowed to return to the school that s/he attended immediately before receiving individual instruction, if the student returns during the school year in which the individual instruction was initiated.

Students enrolled in individual instruction in a hospital or other residential health facility for a partial week, are entitled to attend school in his/her school district of residence, or to receive individual instruction provided by the school district of residence in the student’s home, on days in which he or she is not receiving individual instruction in a hospital or other residential health facility, if s/he is well enough to do so.

Absences from the student’s regular school program due to the student’s temporary disability are excused until the student is able to return to the regular school program. (Education Code §§ 48206.3, 48207, 48207.3, 48207.5, 48208, 48240 (c) and 48980(b).)

3. To be informed of District programs for students with special needs, including your right to have your child placed in an “appropriate” program, and to be consulted about the assessment and placement of your child. Students with exceptional needs have a right to a free appropriate public education. (Education Code §56000 et seq.)
4. To excuse your child from taking part in training in health, family life education, and sex education instruction which conflicts with your religious training, beliefs, and moral convictions or those of your child. (Education Code §51240) PGUSD provides 5th grade science curriculum led by the district nurse covering the topics of human growth and reproduction. In grades 7th and 9th grades, physical education teachers facilitate an online learning management system from Planned Parenthood Mar Monte usually in the spring (April/May). Letters reminding parents/guardians of these lessons will be sent via email at least two weeks in advance.
5. To be informed, in writing, of sex education classes offered by the District and of your opportunity to inspect and review all instructional materials to be used in such classes. You may request, in writing, if you do not want your child to attend these classes. Your request will be valid for a school year but may be withdrawn by you at any time. This notice does not apply to human reproductive organs, which may appear in physiology, biology, zoology, general science, personal hygiene, or health textbooks, adopted pursuant to law. (Education Code §§51930 et seq. and 48980)
6. To be informed, in writing, of AIDS prevention instruction offered by the District for students in grades 7 through 12. You have a right to be notified of the purpose of the AIDS prevention instruction and that you may request, in writing, that your child not receive such instruction. You have the right to request a copy of Education Code sections 51930-51939, which relates to sexual health and AIDS prevention instruction. (Education Code §51930 et seq.) You also have the right to request, in writing, to view material that will be used and are available for inspection prior to the start of classes. You have a right to request, in writing, that your child not attend these classes. You may withdraw this request at any time. School districts must ensure that all pupils receive sexual health instruction from adequately trained personnel in appropriate courses. In this District, staff are used. This instruction will emphasize that sexual abstinence and abstinence from intravenous drug use as the most effective means for AIDS prevention and avoiding sexually transmitted diseases. The instruction will also include development of refusal skills to assist pupils to overcome peer pressure and use effective decision-making skills to avoid high-risk activities. During this class, students in grades 7-12 may be asked to anonymously, voluntarily, and confidentially fill out evaluation and research tools such as surveys, tests, questionnaires measuring student attitudes toward health, sex, and risk behaviors. Parents are hereby notified that they have the opportunity to review the material and can request in writing that their child not participate. Copies of this Education Code §51938 can be requested from your school or district office or can be obtained online here: [Education Code section 51938](#) (Education Code §51938).
7. Personal Beliefs / Political Affiliations / Behavior / Close Family Relationships
No test, questionnaire, survey, or examination which has questions about your or your child's: beliefs and practices in sex, family life, morality, religion, political affiliations or beliefs, illegal, anti-social, self-

incriminating, or demeaning behavior, mental or psychological problems, legally recognized privileged relationships (such as lawyer, physician, or minister), critical appraisals of individuals with whom you have close family relationships, or income (except as required by law to determine eligibility for participation in a program or for receiving financial assistance under such program) shall be administered without prior notification and written permission of the parent or guardian. Parents may inspect all instructional materials, including teacher's manuals, films, tapes or other supplementary material to be used in connection with any survey, analysis or evaluation. (Education Code §§51513 and 60614 and 20 USC 1232h(a) and (b).)

8. To have a conference scheduled when a teacher has determined and informed you that your child is in danger of failing a course. (Education Code §49067)
9. You may request a meeting to review instructional materials and discuss the curriculum of your child's courses.
10. California Assessment of Student Performance and Progress (CAASPP) Exemption. Each year, parents and guardians will be notified regarding their student's participation in the CAASPP assessment system. Parents and guardians wanting to excuse their children from any or all parts of the CAASPP must submit a written request. Such written requests must be submitted to the school on an annual basis. If you have any questions, please contact your appropriate site Principal.
11. To be informed of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Education Code section §52242. (Education Code §488980(k).)
12. A provision of Federal law requires all districts to notify parents of all children in Title I schools that they have the right to request and receive timely information on the professional qualifications of their children's classroom teachers and paraprofessionals. (20 USC §6312, Sec. 1112(e).)
13. The Board of Education has adopted student standards of proficiency as required by law in basic skills. Skills shall include, but are not limited to, reading comprehension, writing, computational skills, and other areas that the Board deems appropriate. The Superintendent shall ensure that they are articulated across the grade levels. ([Board Policy 6146.5](#))
14. The District is committed to providing a tobacco-free environment. In accordance with state and federal law, smoking is prohibited in all District facilities and vehicles. In accordance with Board policy, the use of tobacco products is prohibited at all times on District grounds.
15. Career Counseling and Course Selection Parents/guardians will be notified, at least once, in advance of career counseling and course selection commencing with 7th grade course selection so that they may participate in the counseling sessions and decisions. (Education Code §221.5(d).)
16. Pregnant and Parenting Student Rights
Rights Under Education Code Section 221.51
 Local educational agencies (including school districts, charter schools and county offices of education):
 - (a) Shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex.
 - (b) Shall not exclude nor deny any student from any educational program or activity, including class or extracurricular activity, solely on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.
 - (c) May require any student to obtain the certification of a physician or nurse practitioner that the student is physically and emotionally able to continue participation in the regular education program or activity.
 - (d) Pregnant or parenting students shall not be required to participate in pregnant minor programs or alternative education programs. Pregnant or parenting students who voluntarily participate in alternative education programs shall be given educational programs, activities, and courses equal to those they would have been in if participating in the regular education program.
 - (e) Shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom in the same manner and under the same policies as any other temporary disabling condition.

Rights Under Education Code Section 46015

(a)(1) pregnant or parenting students are entitled to eight weeks of parental leave, which the student may take before the birth of the student's infant if there is a medical necessity and after childbirth during the school year in which the birth takes place, inclusive of any mandatory summer instruction, in order to protect the health of the student who gives or expects to give birth and the infant, and to allow the pregnant or parenting student to care for and bond with the infant. The student, if the student is 18 years of age or older, or, if the student is under 18 years of age, the person holding the right to make educational decisions for the student, shall notify the school of the student's intent to exercise this right. Failure to notify the school shall not reduce these rights.

(2) A pregnant or parenting student who does not wish to take all or part of the parental leave to which s/he is entitled shall not be required to do so.

(3) A pregnant or parenting student is entitled to receive more than eight weeks of parental leave if deemed medically necessary by the student's physician.

(4) When a student takes parental leave, the supervisor of attendance shall ensure that absences from the student's regular school program are excused until the student is able to return to the regular school program or an alternative education program.

(5) During parental leave, a local educational agency shall not require a pregnant or parenting student to complete academic work or other school requirements.

(6) A pregnant or parenting student may return to the school and the course of study in which he or she was enrolled before taking parental leave.

(7) Upon return to school after taking parental leave, a pregnant or parenting student is entitled to opportunities to make up work missed during his or her leave, including, but not limited to, makeup work plans and reenrollment in courses.

(8) Notwithstanding any other law, a pregnant or parenting student may remain enrolled for a fifth year of instruction in the school in which the student was previously enrolled when it is necessary in order for the student to be able to complete state and any local graduation requirements, unless the local educational agency makes a finding that the student is reasonably able to complete the local educational agency's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school.

(9) A student who chooses not to return to the school in which he or she was enrolled before taking parental leave is entitled to alternative education options offered by the local educational agency.

(10) A pregnant or parenting student who participates in an alternative education program shall be given educational programs, activities, and courses equal to those he or she would have been in if participating in the regular education program.

(11) A student shall not incur an academic penalty as a result of his or her use of these accommodations.

Non-Compliance Complaints

A complaint of noncompliance with these requirements may be filed under the District's Uniform Complaint Procedures.

17. Language Acquisition Programs

To be notified that the District offers the following language acquisition program(s) for English learners:

Structured English Immersion for English Learner Program in English at all sites. The District offers two designated English Language Development teachers at the elementary schools and English Language Development sections at the middle and high schools.

Any language acquisition program provided by the District shall:

- (1) Be designed using evidence-based research and include both Designated and Integrated English Language Development (ELD);

- (2) Be allocated sufficient resources by the District to be effectively implemented, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
- (3) Within a reasonable period of time, lead to:
 - (A) Grade-level proficiency in English, and, when the program model includes instruction in another language, proficiency in that other language; and
 - (B) Achievement of the state-adopted academic content standards in English, and, when the program model includes instruction in another language, achievement of the state-adopted academic content standards in that other language. (5 CCR 11309(c).)

Parent Choice and Process to Request the Establishment of a Language Acquisition Program

Parents or legal guardians may choose a language acquisition program that best suits their child. When the parents or guardians of 30 or more students in a school, or 20 or more students in any grade level at a school, request a language acquisition program, the school must offer the language acquisition program to the extent possible once various requirements are met, such as the program having been established with parental, school employee and community input. (Education Code section 310.)

When the parents or guardians of 30 or more students in a school, or 20 or more students in any grade level at a school, request the same or a substantially similar type of language acquisition program, the District shall respond by taking actions to comply with the timelines and requirements of 5 CCR 13111(h):

- (1) Within 10 school days notify the parents and guardians of students attending the school, the school's teachers, administrators, and the District's English learner parent advisory committee and parent advisory committee, in writing, of the parents' requests for a language acquisition program;
- (2) Identify costs and resources necessary to implement any new language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
- (3) Determine, within 60 calendar days, whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to the parents and guardians of students attending the school, the school's teachers, and administrators, of its determination;
 - (A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.
 - (B) In the case where the District determines it is not possible to implement a language acquisition program requested by parents and guardians, the District shall provide in written form an explanation of the reason(s) the program cannot be provided and the District may offer an alternate option that can be implemented at the school. (5 CCR 13111(h).)

18. Educational Rights of High Mobility High School Students When Changing Schools After Their Second Year of High School

High school "high mobility" students, which include students in foster care, homeless, recent immigrants, migrant students, former juvenile court school pupils, and students from military families, have the following rights when transferring to a new school after their second year of high school:

Have the option to be exempted from all coursework and other requirements that are more than statewide course requirements for graduation, unless the District makes a finding that the student is reasonably able to

complete the District's graduation requirements in time to graduate by the end of the fourth year of high school;

Have the option of attending a fifth year of high school in order to complete statewide graduation course requirements;

To consult with school staff and the student's educational rights holder regarding other options available to the student, such as:

- (1) a fifth year of high school;
- (2) transfer opportunities available through California Community Colleges; and
- (3) possible credit recovery.

The consultation must also include a discussion of how remaining for a fifth year of high school or accepting an exemption from the local graduation coursework requirements may potentially impact the student's vocational plans or ability to gain admission to college, and also take into consideration the student's academic record and any other information relevant to making an informed decision. (Ed. Code, § 51225.1, subd. (b)(1), (2), and (3) and subd. (f)(1)-(3).)

Foster youth and homeless students have the right to a consultation with school staff and their educational rights holder regarding the student's option to remain in the student's school of origin; (Ed. Code, § 51225.1, subd. (b)(5).)

Have their official transcript, reflecting the correct, full and partial credits earned, sent to their new school within two business days; (Ed. Code, § 49069.5, subd. (d) and (e).)

Have their new school accept and issue the credits forwarded by the transferring school, to prevent the student from unnecessarily retaking a course (Ed. Code, § 51225.2, subd. (b); and

The official transcripts for transferring foster youth must include a determination of the days of enrollment or seat time, or both if applicable, to ensure that transferring foster youth get full credit for coursework completed at their prior school. (Ed. Code, § 49069.5, subd. (e).)

If exempted from local graduation requirements, and upon completing statewide coursework requirements before the end of the fourth year of high school, the District may not require or request that the student graduate before the end of the student's fourth year of high school. (Ed. Code, § 51225.1, subd. (e).)

G. CALIFORNIA HEALTHY KIDS SURVEY NOTIFICATION AND WITHDRAWAL FORM FOR THE CURRENT SCHOOL YEAR

Each year, students at the 5th, 7th, 9th, and 11th grades participate in The Healthy Kids Survey sponsored by the California Department of Education. This is a very important survey that will help promote better health among our youth and combat problems such as drug abuse and violence. The survey gathers information on behaviors such as environmental and individual strengths and assets, alcohol, tobacco, other drug use, bullying and violence. You may examine the questionnaire in the school office or at the WestEd website at <https://www.wested.org/project/california-healthy-kids-survey-chks/>. Your child does not have to take the survey. Students who participate only have to answer the questions they want to answer, and they may stop taking it at any time. No names will be recorded or attached to the survey forms or data. The results will be made available for analysis only under strict confidentiality controls. The survey will be administered in November/December. It will take about one class period to complete (about 50 minutes) and will be administered in your child's P.E. class.

The survey was developed by WestEd, a public, non-profit educational institution. If you have any questions about this survey, or about your rights, call the curriculum office at 831-646-6526.

If you do not want your child to complete the survey, you must notify Buck Roggeman, Curriculum Director at the District Office by letter, email (broggeman@pgusd.org) or telephone (831-646-6508).

H. MISCELLANEOUS:

1. Anti-Discrimination (Federal)

Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 prohibit discrimination on the basis of race, color, national origin, or sex (sex discrimination includes sexual harassment and discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery from pregnancy or childbirth-related conditions), marital, parental or family status in federally financed education programs or activities. The District does not discriminate in admission or access to its programs or activities. *Refer to Board [Policy 5145.3](#), [Regulation 5145.3](#), and [Regulation 5145.71](#) in the Attachments section.*

You have certain rights under the law, including Title VI of the Civil Rights Act of 1974, Title IX of the Education Amendments of 1972, §504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act (IDEA, formerly known as EHA). A handicap or limited English language skills will not be a barrier to District programs. The California Department of Education and the Office for civil Rights of the U.S. Department of Education have authority to enforce these laws and all programs and activities that receive federal funds (Education Code 260, et seq., above cited federal statutes).

Any questions or concerns concerning noncompliance can be directed to your school Principal. The District's Title IX Coordinator is Director II, Human Resources 831.646.6507. (34 CFR §§100.6, 106.9)

2. Anti-Discrimination (State)

Discrimination, harassment, intimidation and bullying are prohibited in any program which receives state financial assistance on the basis of gender (which includes sex and a person's gender identity, gender expression and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth), sex (sex discrimination includes sexual harassment and discrimination against a student based on pregnancy, child birth, false pregnancy, termination of pregnancy or recovery from pregnancy or childbirth-related conditions, or denial of lactation accommodations for lactating students), parental, family or marital status, age, race (includes ancestry, color, ethnicity, ethnic group identification, and ethnic background), national origin, nationality, immigration status, religion (includes all aspects of religious belief, observance and practice and includes agnosticism and atheism), mental or physical disability, genetic information, sexual orientation (includes heterosexuality, homosexuality, and bisexuality), or because a person is perceived to have one or more of the above characteristics or because a person associates with a person or group with one or more of these actual or perceived characteristics. Complaints may be filed with the Superintendent under the District's Uniform Complaint Procedure (attached).

3. Access to Programs, Activities, and Facilities Based on Gender Identity.

Pursuant to state law, students may access sex-segregated programs, activities, and facilities, including locker room and restroom facilities, consistent with their gender identity. Any student may request the use of private or unisex restroom facilities for increased privacy. The District endeavors to protect the privacy of all students. (Education Code §221.5(f).)

4. Families in Transition/Homeless

Local educational agencies (LEA) provide the parents or guardians of homeless children and youth with opportunities to participate in the education of their children. (42 USC 11432[g][6][A][iv])

Homeless children and youth have equal access to the same free, appropriate public education, including a public preschool education, as is provided to other children and youth. If you have uncertain housing, a temporary address, or no permanent physical address, federal and California laws guarantee that your children may be enrolled in their previous school. If this describes your family's living situations, or if you are a student not living with a parent or guardian, please contact Director of Student Services (831) 646-6523.

Immigration Enforcement- "Know Your Rights"

All students have the right to a free public education, regardless of immigration status or religious belief. For more information, please see the resources developed by the California Attorney General at <https://www.oag.ca.gov/immigrant/rights> (Education Code §234.7)

5. Rehabilitation Act and ADA Act

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibit discrimination against qualified disabled persons in federally financed education programs or activities. The District does not discriminate in admission or access to its programs or activities. Please contact the District Program Coordinator with any questions. (34 CFR §104.8, 28 CFR §35.106 and 34 CFR §100.3)

6. Uniform Complaint Procedures

It is the district's goal to resolve most parent/guardians concerns or complaints informally and/or at the level closest to the concern/complaint as possible with the assistance of the school site administrators. If this is not possible, or if parents/guardians wish to file a written complaint about a district policy, regulation, an employee, or unlawful discrimination, or alleged violations of federal or state laws/regulations; parents/guardians may initiate the formal complaint process.

Title 5 of the California Code of Regulations requires districts to adopt and provide Uniform Complaint Procedures to assist you with the procedure for and processing of complaints, the appeal and review procedures for complaints, and of available remedies at law. [*Refer to Board Policy and Exhibit 1312.3 and Regulation and Exhibit 1312.4 in the Attachments section.*](#)

The Governing Board designates the following compliance officer to receive and investigate all complaints and ensure District compliance with law:

Director II, Human Resources
435 Hillcrest Avenue
Pacific Grove, CA 93950
(831) 646-6507

Procedures for Filing Complaints

- a. Complaint forms are specific to the type of complaint (i.e., employee, program, discrimination, Williams, Uniform, etc.) The forms are available at any school site, the District office, the District website and in this handbook.
- b. The process begins by completing a complaint form and returning it to the site administrator, department head, the District Compliance Officer or the Superintendent. Complaints concerning unlawful discrimination must be initiated no later than six (6) months from the date when the alleged discrimination occurred.
- c. The complaint process is handled in a confidential manner. Retaliation for a filing complaint is prohibited by law.

Contact the school Principal, Director of Human Resources or Superintendent's office for more information or to request an additional copy of these procedures. (Title 5 California Code Regulations §§4622, 4652, and 4671)

7. State Preschool Health and Safety Issues Complaints

The District operates a State preschool program, which is located at 1004 David Avenue in Pacific Grove. Complaints regarding state preschool health and safety issues are processed under the District's Regulation and Exhibit #1312.4 (see attached). Complaints must be filed with the preschool program administrator, or his/her designee, and may be filed anonymously. (Education Code section 8235.5 and 5 CCR §§ 4690 – 4694)

8. School Accountability Report Card (SARC)

The SARC is available upon request, and is also on the District's website at www.pgusd.org. It contains information about the District and schools regarding the quality of programs and its progress toward achieving stated goals. A copy will be provided upon request. (Education Code §§33126, 32286, 35256, and 35258)

9. Management Plan for Asbestos

You may request to review the complete updated management plan for asbestos containing material in school buildings. Staff, students, and parents/guardians shall be informed at least once each school year about any inspections, response actions, and post-response actions, including periodic re-inspection and surveillance activities that are planned or that are in progress. (40 CFR §§763.84(c) and 763.93)

10. Technology/Internet Use

Computers and the internet provide teachers and students with access to global information that greatly enhances their classroom experiences. To avoid the misuse of technology and related communication services, students will receive age-appropriate instruction about the obligations and responsibilities inherent with having access to technology and related communication services.

Students, as district technology users, shall sign the District's Technology User Agreement and any associated Technology User Contracts, indicating that they understand and agree to abide by all obligations and responsibilities. Refer to [Policy 6163.4](#) and [Exhibit 6163.4](#) in the Attachments section.

11. School District Committees

Parents and community members are invited to apply for membership on any committee that is called to service by the Pacific Grove Unified School District. The purpose of District committees is to advise the school and/or Board of Education regarding school problems, needs and issues. Committees function to serve in an advisory capacity to the Board of Education. For further information please contact the Superintendent's Office, (831) 646-6510.

12. Pest Control Procedure and Notification

To enhance the environmental safety of students and staff, the District has adopted an integrated pest control procedure and notification process.

Therefore, in determining when to control pests and whether to use mechanical, physical, chemical, cultural or biological means, the District shall follow the principles of integrated pest management. Procedures shall include the following:

- a. The choice of using a pesticide will be based on a review of all other available options and a determination that these options are not acceptable or not feasible. The full range of alternatives, including no action, will be considered.
- b. Selected non-chemical pest management methods will be used whenever possible to provide the desired control. Cost of staffing considerations alone will not be adequate justification for use of chemical control agents.
- c. The pest and the site of infestation shall be carefully identified. Strategies for managing the pest will be influenced by the pest species and whether that species poses a threat to people, property or the environment.
- d. When it is determined that a pesticide must be used, the least hazardous material will be chosen and applied in accordance with law.
- e. Staff, student and parents/guardians shall receive information about the district's integrated pest procedures and notification of any upcoming pesticide treatments. Notice of upcoming pesticide treatments shall also be posted in areas designated by the Superintendent or designee.
- f. The following records shall be maintained at each school site:
 - 1) Records of pesticide use at the site.
 - 2) Pest surveillance data sheets that record the number of pests or other indicators of pest populations that verify the need for treatments.

- g. Pesticide purchases shall be limited to amounts authorized by the Superintendent or designee for use during the year. Pesticides shall be stored in a secure site not accessible to students or unauthorized staff; they shall be stored and disposed of in accordance with EPA-registered label directions and state regulations.
- h. Persons applying pesticides shall follow label precautions and shall be trained in the principles and practices of integrated pest management.

Further information regarding our District schools, programs, policies and procedures is available to any interested person upon request to our District Office and at the District's website pgusd.org (34 CFR Section 99.7(b).)

13. Firearm Safety and Safe Storage of Firearms Information

Beginning with the 2023-2024 school year, school districts are required to include information in their Annual Notices related to the safe storage of firearms and California's child access prevention laws, which establish liability for parents and guardians who should have known that their child could gain access to a firearm at home. Please refer to page 172 to read the PGUSD Firearms Safety memorandum. (Ed. Code, §§ 49391, 49392, and 48986.)

I. SPECIAL EDUCATION RIGHTS OF PARENTS AND CHILDREN

Notice of Procedural Safeguards

See attached Monterey County Special Education Local Plan Area – Notice of Procedural Safeguards

J. NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504, REHABILITATION ACT OF 1973

The Rehabilitation Act of 1973, which includes "Section 504," is a civil rights statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination against persons with disabilities participating in, or receiving benefits from, programs receiving federal financial assistance, and ensures that eligible disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

Section 504 defines a student with a disability as one who: (a) has a physical or mental impairment that substantially limits one or more major life activities, such as learning; or (b) has a record of such an impairment; or (c) is regarded as having such an impairment.

Dual Eligibility: Some students may be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act ("IDEA").

The implementing regulations for Section 504, as set out in 34 CFR, Part 104, provide eligible students with disabilities and their parents with the following rights:

1. Parents' Rights: You have a right to be informed by the District of your rights under Section 504. (The purpose of this Notice form is to advise you of those rights.) 34 CFR 104.32.
2. FAPE: Your child has the right to a free appropriate public education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33
3. Free Education: Your child has the right to free educational services, with the exception of certain costs that are also imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved of an otherwise valid obligation to provide or pay for services provided to a student who becomes eligible for services under Section 504. 34 CFR 104.33
4. LRE: Your child has a right to an educational placement in the least restrictive environment, which means that to the maximum extent appropriate, your child has the right to be educated with non-disabled students, and has the right to be educated in regular classes, unless your child's needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. 34 CFR 104.34.
5. Comparable Facilities: Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 CFR 104.35.

6. Evaluations: Your child has a right to an evaluation prior to an initial Section 504 placement and, if eligible for services under Section 504, before any subsequent significant change in placement. 34 CFR 104.35.
7. Testing Procedures: Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The District shall consider information from a variety of sources, including, for example, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. 34 CFR 104.35.
8. Section 504 Student Study Team: Placement decisions must be made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, and the placement options, and placement decisions must be made in conformity with least restrictive environment and comparable facilities obligations. 34 CFR 104.35.
9. Re-evaluations: If eligible for services under Section 504, your child has a right to periodic re-evaluation, including prior to any significant change in placement. 34 CFR 104.35.
10. Prior Notice: You have the right to notice prior to any action by the District in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36
11. Records: You have the right to examine relevant records of your student. 34 CFR 104.36
12. Due Process Procedures: You have the right to an impartial due process hearing if you wish to contest District action regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney, if you wish to retain one. 34 CFR 104.36
13. Review Procedures: You have the right to seek review in federal court if you disagree with the hearing officer's decision upon conclusion of a due process hearing. 34 CFR 104.36
14. Internal Procedures: If you disagree with the identification, evaluation, or placement of a student with disabilities under Section 504, you may, but are not required to, initiate the procedures covered in Administrative Regulation 6164.6, which is available on the District's website or upon request.
15. OCR Complaints: You have a right to file a complaint with the Office for Civil Rights. The following is the contact information for the regional office that covers California:

Office for Civil Rights
 U.S. Department of Education
 50 United Nations Plaza
 Mail Box 1200, Room 1545
 San Francisco, CA 94102
 Telephone: (415) 486-5555
 TDD (800) 877-8339
 Facsimile: (415) 486-5570
 Email: OCR.SanFrancisco@ed.gov

16. Discipline Procedures: When a student with a disability is suspended or expelled for more than 10 consecutive school days in one school year, or when there is a pattern of removals exceeding 10 school days, a significant change in placement has occurred and the District must conduct a manifestation determination review, unless the student is solely eligible under Section 504 and the conduct at issue is the illegal use or possession of alcohol or drugs and the student is currently engaged in the use of alcohol or drugs. In such instances of alcohol or drug use or possession, as well as in instances where the suspension(s) or expulsion is 10 days or less, the District may take the same disciplinary action against your child that it would take against a nondisabled student.

A manifestation determination review is conducted by the student's Section 504 Team at a meeting to which the student's parents will be invited to attend. The review will determine whether the student's behavior at issue was a manifestation of his/her disability, and this is done by answering two questions: 1) was the conduct in question caused by, or had a substantial relationship to, the student's disability; and, 2) was the conduct in question the direct result of the District's failure to implement the student's Section 504 plan. If the answer to both questions is "no," then the alleged misconduct shall be determined not to be a

manifestation of the student's disability and the student may be disciplined for the conduct in question in the same manner as a student without disabilities. If the answer to either question is "yes," then the student may not be disciplined for the conduct in question.

You will be informed of the Section 504 Team's decision in writing and the right to request an impartial hearing on the issue. Neither your disagreement with the determination nor your request for an impartial hearing shall preclude the District from proceeding with disciplinary action. If, following an impartial hearing and the exhaustion of any judicial proceedings reviewing that decision, it is determined that the misconduct was caused by the student's disability or by a failure to implement a Section 504 plan, then the District shall reinstate the student to his/her prior educational program and shall promptly hold a Section 504 Team meeting to re-examine the student's current educational needs.

REMINDER: The procedural safeguards outlined in this Notice apply only to eligible students under Section 504. Students protected by the IDEA are to follow IDEA procedures. For more information, please contact the District's Section 504 Coordinator, Director of Student Services at (831)646-6523.

K. COLLEGE ADMISSIONS REQUIREMENTS / CAREER TECHNICAL EDUCATION (Education Code section 51229)

Parents of students enrolled in grades 9-12 have a right to receive annual notice of the following college admissions requirements and career technical education information:

A. College Admissions Requirements

University of California:

There are three paths to eligibility for freshmen:

1. Eligibility in the Statewide Context - Students must complete specific coursework and college admissions tests and earn the required GPA and test scores.
2. Eligibility in the Local Context (ELC) - Students must rank in the top 4 percent of their graduating class at a participating California high school.
3. Eligibility by Examination Alone - Students must achieve specified high scores on their college admissions tests.

The following website links provide more information regarding University of California admission requirements:

<http://admission.universityofcalifornia.edu/>

http://www.universityofcalifornia.edu/admissions/undergrad_adm/paths_to_adm/freshman/subject_reqs.html

California State University:

Most applicants who are admitted meet the standards in each of the following areas:

1. Specific high school courses
2. Grades in specified courses and test scores
3. Graduation from high school

The following website link provides more information regarding the California State University admission requirements:

http://www.csumentor.edu/planning/high_school/

B. Career Technical Education

Career Technical Education is a program of study that involves a multiyear sequence of courses that integrates core academic knowledge with technical and occupational knowledge to provide students with a pathway to postsecondary education and careers.

For more information, visit the California Department of Education's website at

<http://www.cde.ca.gov/ci/ct/>

Guidance Counseling

Students may meet with guidance counselors at their school to discuss college admission requirements and/or to enroll in career technical education courses.

**This completes the “Notice of Parental Rights and Responsibilities” section.
On the following pages are the referenced board policies and regulations
(also available on the District’s website), and complaint forms.**

ATTACHMENTS

ANNUAL NOTIFICATION OF PLANNED PESTICIDE USE

Dear Parent or Guardian,

The Healthy Schools Act (HSA) of 2000 was signed into law in September 2000 and requires that all California school districts provide parents, guardians, and employees with annual written notification of expected pesticide use on school sites. This notification identifies the active ingredient(s) in each pesticide product and includes the internet address to the Department of Pesticide Regulation (DPR) for further information on the pesticides and their alternatives. Pacific Grove Unified School District will send out this Annual Notification at the beginning of every school year and post to its website at <http://facilities.pgusd.org/ipm/>. Pesticides are only used when necessary or when non-chemical measures are unsuccessful. Below are the pesticides the school district expects to apply during the school year, if necessary.

2024-2025 PESTICIDE/ HERBICIDE USE LIST

PRODUCT

Suppress Herbicide EC (OMRI listed)
Dr. Earth Final Stop (OMRI listed)

Terro Liquid Ant Killer (EPA Reg. No. 149-8)
EcoEXEMPT JET Wasp & Hornet (EPA exempt)
2-

Termidor SC (EPA Reg. No 7969-210)

ACTIVE INGREDIENT(S)

Caprylic Acid 47%, Capric Acid 32%
Cinnamon oil 2.1%, Citric Acid 2%, Clove oil
1.5 %, Rosemary oil .04%, Sesame oil .04%,
Thyme oil .03%

Sodium Tetraborate Decahydrate (Borax)
Rosemary oil 1.5%, Peppermint oil 1.5%,

Phenethyl Propionate 3%, Geraniol 2%

Fipronil 9.1%

You can find more information regarding these pesticides and pesticide use reduction at the Department of Pesticide Regulation's Web site at <http://www.cdpr.ca.gov>.

Parents, guardians, or employees may request prior notifications of pesticide applications. Forms can be submitted online or downloaded at <http://facilities.pgusd.org/ipm/>. Forms can also be picked up at the District office or in the front office at the individual school sites. People listed on this registry will be notified at least 72 hours before the pesticide will be applied.

If you have any questions, please contact:

Jon Anderson, Director of Maintenance, Operations & Transportation
435 Hillcrest Ave
Pacific Grove, CA 93950
Phone: (831) 646-6553 x9210
E-Mail: john@schoolsitesolutions.com

Education Code section 48853.5**Foster children; notice of educational rights; educational liaison; duties; continuation at school of origin; complaint of noncompliance**

(a) This section applies to a foster child. “Foster child” means any of the following:

- (1) A child who has been removed from their home pursuant to Section 309 of the Welfare and Institutions Code.
- (2) A child who is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, whether or not the child has been removed from their home.
- (3) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law.
- (4) A child who is the subject of a voluntary placement agreement, as defined in subdivision (p) of Section 11400 of the Welfare and Institutions Code.

(b) The department, in consultation with the California Foster Youth Education Task Force, shall develop a standardized notice of the educational rights of foster children, as specified in Sections 48850 to this section, inclusive, and Sections 48911, 48915.5, 49069.5, 49076, 51225.1, and 51225.2. The notice shall include complaint process information, as applicable. The department shall make the notice available to educational liaisons for foster children for dissemination by posting the notice on its internet website. Any version of this notice prepared for use by foster children shall also include, to the greatest extent practicable, the rights established pursuant to Section 16001.9 of the Welfare and Institutions Code. In developing the notice that includes the rights in Section 16001.9 of the Welfare and Institutions Code, the department shall consult with the Office of the State Foster Care Ombudsperson.

(c) Each local educational agency shall designate a staff person as the educational liaison for foster children. In a school district that operates a foster children services program pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of Division 3, the educational liaison shall be affiliated with the local foster children services program. The educational liaison shall do both of the following:

- (1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children.
- (2) Assist foster children when transferring from one school to another school or from one school district to another school district in ensuring proper transfer of credits, records, and grades.

(d) A foster child’s educational rights holder, attorney, and county social worker and an Indian child’s, as defined in Section 224.1 of the Welfare and Institutions Code, tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.

(e) This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or legal guardian retaining educational rights, a responsible adult appointed by the court to represent the child pursuant to Section 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under Section 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of the school of origin.

(f) (1) At the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue the foster child’s

education in the school of origin for the duration of the jurisdiction of the court.

(2) If the jurisdiction of the court is terminated before the end of an academic year, the local educational agency shall allow a former foster child who is in kindergarten or any of grades 1 to 8, inclusive, to continue the former foster child's education in the school of origin through the duration of the academic school year.

(3) (A) If the jurisdiction of the court is terminated while a foster child is in high school, the local educational agency shall allow the former foster child to continue the former foster child's education in the school of origin through graduation.

(B) For purposes of this paragraph, a school district is not required to provide transportation to a former foster child who has an individualized education program that does not require transportation as a related service and who changes residence but remains in the former foster child's school of origin pursuant to this paragraph, unless the individualized education program team determines that transportation is a necessary related service.

(4) To ensure that the foster child has the benefit of matriculating with the foster child's peers in accordance with the established feeder patterns of school districts, if the foster child is transitioning between school grade levels, the local educational agency shall allow the foster child to continue in the school district of origin in the same attendance area, or, if the foster child is transitioning to a middle school or high school, and the school designated for matriculation is in another school district, to the school designated for matriculation in that school district.

(5) (A) Paragraphs (2), (3), and (4) do not require a school district to provide transportation services to allow a foster child to attend a school or school district, unless there is an agreement with a local child welfare agency that the school district assumes part or all of the transportation costs in accordance with Section 6312(c)(5) of Title 20 of the United States Code, or unless otherwise required under federal law. This paragraph does not prohibit a school district from, at its discretion, providing transportation services to allow a foster child to attend a school or school district.

(B) In accordance with Section 6312(c)(5) of Title 20 of the United States Code, local educational agencies shall collaborate with local child welfare agencies to develop and implement clear written procedures to address the transportation needs of foster youth to maintain them in their school of origin, when it is in the best interest of the foster youth.

(6) The educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, may recommend, in accordance with the foster child's best interests, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

(7) Before making a recommendation to move a foster child from the foster child's school of origin, the educational liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child's best interests.

(8) (A) If the educational liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by the foster child's transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

(B) The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic

records, medical records, including, but not limited to, records or other proof of immunization history pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code, proof of residency, other documentation, or school uniforms.

(C) Within two business days of the foster child's request for enrollment, the educational liaison for the new school shall contact the school last attended by the foster child to obtain all academic and other records. The last school attended by the foster child shall provide all required records to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The educational liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

(9) If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to a pupil served by the local educational agency.

(10) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

(11) (A) If a local educational agency operates an intersession program, the local educational agency shall grant priority access to a foster child.

(B) Notwithstanding any other law, if the foster child will be moving during an intersession period, the pupil's educational rights holder, or Indian custodian in the case of an Indian child, shall determine which school the pupil attends for the intersession period, if applicable.

(12) It is the intent of the Legislature that this subdivision shall not supersede or exceed other laws governing special education services for eligible foster children.

(g) For purposes of this section, the following definitions shall apply:

(1) "Indian custodian" as it is defined in Section 1903 of Title 25 of the United States Code.

(2) (A) "Intersession program" means an expanded learning program offered by a local educational agency on nonschooldays, including, but not limited to, summer school.

(B) An intersession program does not include an extended school year program for individuals with exceptional needs established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(3)(A) "School of origin" means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

(B) For a foster child who is an individual with exceptional needs as defined in Section 56026, "school" as used in the definition of "school of origin" in subparagraph (A) includes a placement in a nonpublic, nonsectarian school as defined in Section 56034, subject to the requirements of

Section 56325.

(h) This section does not supersede other law governing the educational placements in juvenile court schools, as described in Section 48645.1, by the juvenile court under Section 602 of the Welfare and Institutions Code.

(i)(1) A complaint of noncompliance with the requirements of this section may be filed with the local educational agency under the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a local educational agency may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written decision regarding the appeal within 60 days of the department's receipt of the appeal.

(3) If a local educational agency finds merit in a complaint, or if the Superintendent finds merit in an appeal, the local educational agency shall provide a remedy to the affected pupil.

(4) Information regarding the requirements of this section shall be included in the annual notification distributed to, among others, pupils, parents or guardians of pupils, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations.



California Foster Youth Education Task Force

California Foster Youth Education Law Fact Sheets

➤ Ninth Edition, January 2023 ◀





The California Foster Youth Education Task Force (CFYETF) is a coalition of organizations dedicated to improving educational outcomes for youth in foster care. For more information, visit the website at <http://www.cfyetf.org>. For a full list of Member Organizations, see pages 30-31.

These fact sheets are current as of January 2023. To report any errors, please e-mail Mia Stizzo at mia.stizzo@cfpic.org

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Citations and Abbreviations Key

AB	Assembly Bill (California)	GC	California Government Code
CCR	California Code of Regulations	SB	Senate Bill (California)
CFR	Code of Federal Regulations	USC	United States Code
CRC	California Rules of Court	WIC	California Welfare & Institutions Code
EC	California Education Code		

Where to access the resources cited throughout the fact sheets:

- California Codes: <http://leginfo.legislature.ca.gov/faces/codes.xhtml>
- California Code of Regulations:
<https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>
- California Department of Social Services, All County Letters and Notices:
<https://www.cdss.ca.gov/inforesources/letters-and-notice>
- California Rules of Court: <http://www.courts.ca.gov/rules.htm>
- Code of Federal Regulations: <http://www.ecfr.gov>
- United States Code: <http://www.law.cornell.edu/uscode/text>

Guide to Frequently Used Terms

- **Best Interest Determination (BID):** A foster youth's educational rights holder (ERH) determines whether it is in the youth's best interest to remain in their school of origin. *CRC 5.650(f)*. Foster youth have the right to remain in their school of origin if it is in their best interest; school of origin is the default. *EC 48853.5(f)*.
- **Foster Child or Youth:** According to *EC 48853.5(a)*, a child or youth who:
 - Has been removed from their home pursuant to WIC 309 (temporary custody);
 - Is the subject of a petition filed under WIC 300 (alleging abuse or neglect of the child) or WIC 602 (alleging the youth violated the law), whether or not the child has been removed from their home;
 - Is a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law; or
 - Is the subject of a voluntary placement agreement.

All of the above children and youth have a right to all of the laws discussed in these Fact Sheets.

For purposes of the Local Control Funding Formula (LCFF), and for whom an LEA receives LCFF funding, a "foster youth" is defined as any of the following (*EC 42238.01(b)*) (please note that, whether or not an LEA receives LCFF funding for a youth, the youth still has all the rights discussed herein if they meet the foster child or youth definition provided above in *EC 48853.5(a)*):

- A child or youth who is the subject of a petition filed under WIC 300 (meaning a petition filed in the Juvenile Court that alleges abuse or neglect of the child by the parent or legal guardian). This includes both children who remain living at home (i.e., with their parents) while under the jurisdiction of the Juvenile Court as well as children whom the court has ordered to be removed from their parents into the care, custody and control of a social worker for placement outside the home. *EC 42238.01(b)(1)*.
- A child or youth who is the subject of a petition filed under WIC 602 (meaning a petition filed in Juvenile Court that alleges the youth has violated the law) and has been ordered by a court to be removed from home pursuant to WIC 727 and placed into foster care as defined by WIC 727.4(d) (e.g., placed into a foster home or short-term residential therapeutic program). *EC 42238.01(b)(2)*.
- A youth between ages 18 and 21 who is enrolled in high school, is a non-minor dependent under the placement responsibility of child welfare, probation, or a tribal organization participating in an agreement pursuant to WIC 10553.1, and is participating in a transitional independent living case plan. *EC 42238.01(b)(3)*.
- A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law. *EC 42238.01(b)(4)*.
- A child who is the subject of a voluntary placement agreement. *EC 42238.01(b)(5)*.
- **Free Appropriate Public Education (FAPE):** All local educational agencies (LEAs) are responsible for ensuring that each child with disabilities receives appropriate special education and related services, at no expense to the parent. *34 CFR 300.17, 300.101, 300.2*.
- **Educational Rights Holder (ERH):** The parent or guardian or other person holding the right to make educational decisions for a foster youth; may be appointed by the court. *WIC 361, 726*. See *CRC 5.650(e)-(g)* for a list of rights and responsibilities. If the court is unable to locate a responsible adult for the child, the child has not reached the age of 18, the rights of the parent, guardian or Indian custodian to make educational or developmental services decisions have not been restored, a successor guardian or conservator has not been appointed, the child has not been placed in a planned permanent living arrangement, **and** the child either has been referred to a local educational agency (LEA) for special education or has an Individualized Education Program (IEP), the court must refer the child to the LEA for appointment of a "surrogate parent." *WIC 361(a)(4), 726(c)(1); GC 7579.5-7579.6; CRC 5.650(a)(2)(A)(i), (d); see also WIC 319(j)(3), (5)*.
- **Individualized Educational Program (IEP):** The right of a child with a disability to an educational program designed to meet their individual needs and based on adequate assessment is assured through the development of an Individualized Educational Program (IEP). At or before age 16, this includes the development of an Individual Transition Plan (ITP) to provide for transition into the world of work. *EC 56032, 56043(g)(1), 56345, 56345.1*.
- **Least Restrictive Environment (LRE):** Each child is assured of their right to be educated with non-disabled peers to the maximum extent appropriate to the needs of the disabled child. *34 CFR 300.114*.
- **Local Educational Agency (LEA):** A school district, county office of education, charter school, or special education local plan area. *EC 48859(d), 56026.3*.
- **School of Origin:** A foster child's "school of origin" is (1) the school in which the child was last enrolled, (2) the school the child attended when permanently housed (i.e., prior to removal from the home), or (3) any other school the child attended within the immediately preceding 15 months to which the child feels connected. *EC 48853.5(g)*. For additional considerations, see the Educational Rights and School Stability fact sheet.
- **Special Education Local Plan Area (SELPA):** An organization of one or more LEAs into an overarching body to disburse and utilize special education funding to meet the needs of children attending schools that are members of the SELPA—including, but not limited to, staff training and specialized programs. *EC 56195.1*.
- **Tribal Foster Youth:** A dependent child or youth of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in accordance with the tribe's law. *EC 48853.5(a)(3)*.
- **Voluntary Placement Agreement:** A written agreement between the county child welfare agency, probation department, or Indian tribe and the parents/guardians of a child to place the child in a voluntary out-of-home placement. The voluntary placement agreement must specify, at a minimum, the legal status of the child and the rights and obligations of the parents/guardians, the child, and the agency while the child is in the placement. *WIC 11400(o)-(p)*.

Educational Rights and School Stability



California Foster Youth Education Task Force

Ninth Edition, January 2023

INTRODUCTION

It is the intent of the Legislature to ensure that students in foster care have a meaningful opportunity to meet the challenging academic achievement standards to which all students in the state are held. Educators, social workers, probation officers, caretakers, advocates, and juvenile courts must work together to serve the educational needs of students in foster care. *EC 48850*.

GUIDING PRINCIPLES

Students in foster care—including dependent children of the court of an Indian tribe, and youth who are subject to a voluntary placement agreement—must have access to the same academic resources, services, and extracurricular and enrichment activities that are available to all students. All educational and school placement decisions are made by the educational rights holder, in consultation with other parties, and must be based on the child's best interests and must consider, among other factors, educational stability and the least restrictive educational setting necessary to achieve academic progress. *EC 48850(a)(1)*, *48853(h)*; *WIC 361(a)(6)*, *726(c)(2)*.

Educational matters must be considered at every court hearing. Social workers and probation officers have many education-related reporting requirements. *See CRC 5.651(c) and 5.668(d) for a list of requirements*. Without parental consent or a court order, representatives of the state and local child welfare agencies that are responsible for a child's care and protection may access the child's school records and may disclose the records and information in them to other authorized individuals and entities that are engaged in addressing the child's educational needs so long as the information is directly related to the assistance provided by that individual or entity. *20 USC 1232g(b)(1)(L)*; *EC 49076(a)(1)(N)*.

Foster parents and relative caregivers, regardless of whether they hold educational rights for a foster youth, including tribal foster youth, have the right to access the foster youth's current or most recent records of grades, transcripts, attendance records, online school portals, individualized education programs (IEPs), and 504 plans. *EC 49069.3(a)*.



FOSTER YOUTH SERVICES COORDINATING PROGRAMS

Foster Youth Services Coordinating Programs (FYSCPs) are programs administered by the California Department of Education (CDE) through county offices of education. The programs help to improve children's educational performance and personal achievement. FYSCPs have the flexibility to design services to meet a wide range of needs of foster youth. Commencing with the 2015-16 fiscal year, under AB 854, each FYSCP coordinates and ensures that local educational agencies within its jurisdiction are providing services to foster youth students pursuant to a foster youth services coordinating plan with the purpose of ensuring positive educational outcomes. *EC 42920.5*.

FYSCPs provide support services to foster children who suffer the traumatic effects of displacement from family and schools and multiple placements in foster care. FYSCPs have the ability and authority to ensure that health and school records are obtained to establish appropriate placements and coordinate instruction, counseling, tutoring, mentoring, vocational training, emancipation services, training for independent living, and other related services. FYSCPs increase the stability of placements for foster children and youth. These services are designed to improve the children's educational performance and personal achievement, directly benefiting them as well as providing long-range cost savings to the state.

For a list of FYSCP county contacts, see <https://www.cde.ca.gov/ls/pf/fy/contacts.asp>.

FOSTER YOUTH UNDER TRIBAL COURT JURISDICTION

AB 1055 (2021) amended provisions of the Education Code to ensure that tribal foster youth receive the same protections as other foster youth. Now tribal foster youth in California schools have the same rights and protections, including but not limited to, school of origin, grade and credit protections, timely transfer of records, and immediate enrollment in a school despite fees and fines owed at the last school of attendance. When working with tribal foster youth, it is important to coordinate with the Tribe's social worker or educational designee. All references to foster youth and social workers throughout these fact sheets also refer to tribal foster youth and tribal social workers.

SCHOOL STABILITY

Students in foster care may attend programs operated by the local educational agency (LEA) of residence of the licensed children's institution or foster family home in which the foster youth is placed, or the foster child may continue in their school of origin unless one of the following applies: (1) The student has an IEP requiring placement in a nonpublic, nonsectarian school or agency, or in another LEA; or (2) The parent or guardian or other person holding the right to make educational decisions (educational rights holder or ERH) for the student determines that it is in the best interest of the student to be placed in another educational program, in which case the ERH shall provide a written statement that the ERH has made that determination. *EC 48853(a)*, *48853.5(f)*.

Before placing a child in a juvenile court school, community school, or other alternative school setting, the ERH must consider placement in the regular public school. *EC 48853(c)*.



Educational Rights and School Stability (continued)

• School of Origin

A foster child's "school of origin" is (1) the school in which the child was last enrolled, (2) the school the child attended when permanently housed (i.e., prior to removal from the home), or (3) any other school the child attended within the immediately preceding 15 months to which the child feels connected. *EC 48853.5(g)*. If a foster child's residence changes, the LEA must let the child remain in their school of origin. *EC 48853.5(f)*.

For the purposes of the school of origin right, "foster child" means a child who is the subject of a petition filed under WIC 300 or 602, whether or not the child has been removed from their home; is a tribal foster youth; or is a youth who is the subject of a voluntary placement agreement. *EC 48853.5(a)*.

If the court's jurisdiction ends during an academic year and the child is in kindergarten or grades 1 through 8, inclusive, the right to remain in the school of origin lasts through the end of that academic year. If the court's jurisdiction ends while the child is in high school, the right to remain in the school of origin lasts through graduation. *EC 48853.5(f)(2)-(3)*.

When transitioning between grade levels, the child has the right to continue in their school district of origin in the same attendance area, or if transitioning to a middle or high school, and the school designated for matriculation is another school district, to the school designated for matriculation in that school district. *EC 48853.5(f)(4)*.

A foster child who remains in their school of origin satisfies the residency requirements for attendance in that school district. *EC 48204(a)(2)*. LEAs and placing agencies must work together to develop a plan that ensures that foster children attend the school of origin as the default, and that the child should remain in the school of origin following a change of placement unless the ERH, in consultation with the other parties in court and the school districts, determines it is in the best interest of the child to change schools. *20 USC 6311(g)*.

• Transportation

If the child remains in their school of origin, transportation may be needed between the child's foster care placement and school. Under the Every Student Succeeds Act (ESSA) of 2015, LEAs must collaborate with child welfare to develop and implement clear written procedures governing how transportation to

maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of their time in foster care. The transportation procedures must (1) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with *42 USC 675(4)(A)*; and (2) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the LEA will provide transportation to the school of origin under certain conditions. *20 USC 6312(c)*. A school district is not required to provide transportation services to allow a foster child to attend a school or school district, unless there is an agreement with a local child welfare agency that the school district assumes part or all of the transportation costs in accordance with *20 USC 6312(c)(5)*, or unless otherwise required under federal law. *EC 48853.5(f)(5)*.

The LEAs and placing agencies are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability. *EC 48853.5(f)(10)*.

In some cases, the caregiver may be able to provide transportation, in which case the placing agency can reimburse them for reasonable costs. *20 USC 6312(c)(5)*; *42 USC 675(4)(A)*. The California Department of Social Services (CDSS) explains how to calculate the reimbursement in [All County Letter No. 11-51](#). In addition, CDSS recently issued guidance, in [All County Information Notice I-86-20](#), to clarify

that other trusted adults in a foster youth's life may provide transportation to the youth's school of origin and are also eligible for reimbursement.

For foster youth with an IEP and for whom their IEP team has determined that transportation is a necessary related service for the youth to benefit from their IEP, the LEA must provide transportation as part of its responsibility to provide a free appropriate public education (FAPE) and related services, with consideration of location, placement, and the needs of the youth. *EC 56040*; *EC 41850(b)(5)*.

• Role of the Placing Agency

In making out-of-home placement decisions, the placing agency must promote educational stability by considering a placement's proximity to the child's school of origin and attendance area, the number of previous school transfers, and the school matriculation schedule, among other factors. *WIC 16501.1(d)*. The child's case plan must include specific information about their educational stability and assurances that the placing agency has taken steps to ensure such stability. *WIC 16010(a)*, *16501.1(d)*, *(e)* and *(g)*.

Within one court day of deciding to change a child's placement to a location that could result in a school change, the social worker, tribal social worker, or probation officer must notify the court, the child's attorney, and the child's educational rights holder or surrogate parent (hereinafter referred to as "educational rights holder" or ERH). *CRC 5.651(e)(1)(A)*. If a child who is changing schools has an IEP, the social worker, tribal social worker, or probation officer



Educational Rights and School Stability (continued)

must give written notice of the impending change to the current LEA and the receiving Special Education Local Plan Area (SELPA) at least 10 days in advance. *CRC 5.651(e)(1)(B)*.

If the child's attorney or ERH requests a hearing on the proposed change, the social worker or probation officer must provide a report on the proposed change including whether a dispute exists, how the proposed change serves the best interest of the child, and the responses of all interested parties within two court days after the hearing is set, and the hearing must be held within five court days. Pending the hearing, the child has a right to remain in their school of origin. *CRC 5.651(e)(2)-(4)*.

LEAs and placing agencies must work together to ensure foster children attend the school of origin as the default following a change of placement unless the ERH, in consultation with the other parties in court and the school districts, determines it is in their best interest to change schools. *EC 48853.5(f)*.

• Role of the Court

At any hearing that follows a decision to change a foster child's initial placement or any subsequent change of placement that could lead to a removal from the school of origin, the court must determine whether the placing agency made the appropriate notifications, including:

- The social worker notified the court, the child's attorney and the ERH, no more than one court day after making the placement decision, of the proposed placement decision. *CRC 5.651(e)(1)(A)*.
- If the child had a disability and an active IEP before removal, the social worker, at least 10 days before the change of placement, notified in writing the LEA that provided a special education program for the child before removal and the receiving Special Education Local Plan Area (SELPA). *CRC 5.651(e)(1)(B)*.

The child's attorney must discuss any proposed placement change that could result in a school change with the child and the child's ERH, as appropriate, and may request a hearing on the proposed change. *CRC 5.651(e)(2)(A)*. The ERH also may request a hearing. Any such hearing request must be made no later than two court days after the attorney or ERH received notice of the proposed change. *CRC 5.651(e)(2)*.

If there is a hearing request, the social worker or probation officer must provide a report on the proposed change, including whether a dispute

exists, how the proposed change serves the best interest of the child, and the responses of all interested parties within two court days after the hearing is set, and the hearing must be held within five court days. Pending the hearing, the child has a right to remain in their current school. *CRC 5.651(e)(2)-(4)*; *EC 48853.5(f)(9)*. The court must consider whether it is in the child's best interest to change schools and may make orders related to this issue, including joining parties such as the LEA to ensure transportation is appropriately and timely provided. *CRC 5.651(f)*.

• Role of the LEA

"Local educational agency" (LEA) has different definitions throughout the Education Code but, for purposes of these fact sheets, generally means a school district, a county office of education, a charter school, or a Special Education Local Plan Area (SELPA). *EC 48859(d) and 56026.3*. SELPAs are consortia of educational agencies formed to serve the special education needs of children attending schools that are members of the SELPA.

Each LEA shall designate a staff person as the educational liaison for foster children. *EC 48853.5(c)*. The educational liaison is responsible for the following: (1) ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children; and (2) assist foster children when transferring from one school to another school or from one school district to another school district to ensure proper transfer of credits, records, and grades. *EC 48853.5(c)*.

If the local child welfare agency appoints a "Point of Contact" (POC), then the LEA must also appoint a POC to facilitate communication. *20 USC 6312(c)*. This could potentially be the same person as the educational liaison.

The role of the educational liaison is advisory with respect to placement decisions and determination of the school of origin. *EC 48853.5(e)*. The educational liaison, in consultation with, and with the agreement of, the foster child and the foster child's ERH, may recommend, in accordance with the foster child's best interest, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school in the attendance area in which the foster child resides if the educational liaison first provides the foster child and the foster child's ERH with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child's best interests. *EC 48853.5(f)(6)-(7)*. Ultimately, a foster child's ERH

always makes the best interest decision.

If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process, such as a uniform complaint, available to a student served by the LEA. *EC 48853.5(f)(9)*.

To facilitate communication between school districts and foster children's attorneys, the attorneys (or their law firm or organization) should provide their contact information at least once a year to the educational liaisons of each LEA serving their clients in the county of court jurisdiction. In addition, a foster child's caregiver or ERH may provide the attorney's contact information to the LEA. *WIC 317(e)(4)*.

For more information about educational rights holders (ERHs), see the Educational Decision-Making for Foster Youth Fact Sheet.

LOCAL PUBLIC SCHOOL

Foster youth, including tribal foster youth and youth who are the subject of a voluntary placement agreement, have the right to be educated in the least restrictive educational setting, which often means their local comprehensive school. Foster youth cannot be forced to attend a continuation school or other alternative education setting, even if they are credit deficient or have poor grades or behavior problems. A youth's ERH can decide that it is in the youth's best interest to attend a continuation school or other alternative education setting and seek placement for the youth there. *EC 48850(a)(1)*, *48853(h)*; *WIC 726(c)(2)*. (For exceptions to this rule, see the School Discipline Fact Sheet.)

• Immediate Enrollment

If the ERH, foster child, and educational liaison agree that it is in the best interest of the foster child to transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school. *EC 48853.5(f)(8)(A)*.

A student shall not be denied enrollment or readmission to a public school solely on the basis that the student has had contact with the juvenile justice system, including but not limited to arrest, adjudication by a juvenile court, supervision by a probation officer, detention in a juvenile facility, or enrollment in a juvenile court school. *EC 48645.5(b)*.

Educational Rights and School Stability (continued)

• Fees or Items Owed

The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, including but not limited to records or other proof of immunization history, proof of residency, other documentation, or school uniforms. *EC 48853.5(f)(8)(B)*.

A student shall not owe or be billed for a debt owed to a school or district. If a student owes debt to a school or district, the school or district shall not take negative action against a student, such as withholding grades, transcripts, or a diploma. This provision applies to current and former foster youth even if they have willfully damaged or refused to return property. *EC 49014*.

• Timely Transfer of Records

Within two business days after the foster child's request for enrollment, the educational liaison for the new school shall contact the school last attended by the foster child to obtain all academic and other records. *EC 48853.5(f)(8)(C)*. Within two business days after receiving a transfer request from a county placing agency or notification of enrollment from the new LEA, the prior LEA shall transfer the student out of school and deliver the educational information and records of the student to the next educational placement. *EC 49069.5(d)*. The last school attended by the foster child shall provide all required records to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. *EC 48853.5(f)(8)(C)*. This applies to current and former foster youth even if they have willfully damaged or refused to return property. *EC 49014(g)(2)*.

As part of the transfer process, the current LEA shall compile the complete educational record of the student, including a determination of seat time or time of enrollment, full or partial credits earned, current classes and grades, immunization and other records, and, if applicable, a copy of the foster child's 504 plan or IEP. *EC 49069.5(e)*. The current LEA shall ensure that, if the foster child is absent from school due to a change of placement, the grades and credits of the student will be calculated as of the date the student left school and no lowering of grades will occur as a result of the absence of the student under these circumstances. *EC 49069.5(g)*.

• Grade and Credit Protections

LEAs (including charter schools) must accept full or partial coursework satisfactorily completed by a foster child while attending another public school, a juvenile court school, or a nonpublic, nonsectarian school or agency, even if the child did not complete the entire course; sending LEAs must issue full or partial credit for the coursework satisfactorily completed, based on a determination of days of enrollment or seat time; and receiving LEAs must not require the child to retake a course already satisfactorily completed in one of these settings. Any credits accepted must be applied to the same or equivalent coursework (e.g., meeting the same graduation requirement). If partial credit has been awarded in a particular course, the child must be enrolled in the same or equivalent course at their new school, so that they may continue and complete the entire course; the child must not be required to retake the portion of the course already completed unless the LEA, in consultation with the ERH, finds that the child is reasonably able to complete that portion without causing a delay in meeting the other requirements for their graduation from high school. Notwithstanding the above, a foster child may not be prevented from retaking a course they need to meet the admission requirements for California State University or the University of California. *EC 51225.2*.

A child's grades may not be lowered due to absences caused by a change in placement, verified court appearance, or related court-ordered activity. *EC 49069.5(g)-(h)*.



SPORTS AND ACTIVITIES

Students in foster care, including tribal foster youth and youth who are the subject of a voluntary placement agreement, must have access to the same extracurricular activities and interscholastic sports that are available to all students. If a court or child welfare agency changes a child's residence, the child immediately is deemed to meet all residency requirements for participation in interscholastic sports and other extracurricular activities. *EC 48850(a)*.

UNIFORM COMPLAINT

If a right under *EC 48853.5* is denied, anyone (including a youth, ERH, social worker/probation officer, caregiver, or legal representative) may file a written complaint with the school district or charter school under the Uniform Complaint Procedures Act. *EC 48853.5(i)(1)*; *5 CCR 4610, 4630*. When a complaint is filed, the district must investigate and provide a written response that includes corrective actions or remedies if the LEA finds merit in the complaint, within 60 days. *5 CCR 4631*.

If the person who filed the complaint is not satisfied, they may then file a complaint with the California Department of Education (CDE). The CDE will then have 60 days to investigate and provide a written response. *EC 48853.5(i)(2)*.

If a school district finds merit in a complaint or the State Superintendent finds merit in an appeal, the school district shall provide a remedy to the affected student. *EC 48853.5(i)(3)*.

Educational Decision-Making for Foster Youth



California Foster Youth Education Task Force

Ninth Edition, January 2023

INTRODUCTION

Parents generally have the right to make educational and developmental services decisions for their children unless their child is in a legal guardianship, their child has been freed for adoption (parental rights have been terminated), or the juvenile court has limited their educational rights. *WIC 319(j)*, 361, 726(a)-(c), 358.1(e); *GC 7579.5*; *EC 56055*; *34 CFR 300.30*; *CRC 5.649*.

WHY DOES THIS MATTER?

When it is unclear who has the right to make educational decisions for a child, these important decisions often are not made in a timely manner, if at all. For example:

- **Special Education Evaluation**

Local educational agencies (LEAs) generally cannot start evaluating a student for disabilities that make them eligible for special education services until the adult who holds educational rights signs a proposed assessment plan. *20 USC 1414(a)*; *EC 56506*.

- **Individualized Education Program (IEP)**

A student's IEP cannot be implemented without the approval and signature of the adult who holds educational rights. *20 USC 1414(a)*; *34 CFR 300.300*; *EC 56346*.

- **School Placement**

The best interest determination regarding school of origin cannot be made for a child without the educational rights holder (ERH) (although a child must remain in their school of origin as the default placement until the best interest determination is made). A child's ERH may determine it is in the child's best interest to attend an educational program other than one operated by the LEA. *EC 48853(a)(3)*.

COURT'S CONSIDERATIONS

Educational matters, including who has the authority to make educational decisions for a foster child and whether someone else should be appointed to hold educational rights, must be considered at every court hearing for every child, including for children ages 0-5. *CRC 5.649* and *5.651(b)-(c)*. The social worker or probation officer must include information in every court report about educational decision-making, including who holds the child's educational

rights. See *CRC 5.651(c)* for a list of the information required to be included in these court reports.

APPOINTING EDUCATIONAL DECISION-MAKERS

- **Court-Appointed Decision-Makers**

A juvenile court can limit the right of a parent or guardian to make educational decisions for a child if it is necessary to protect the child. Any limitations must be specified in a court order. *WIC 319(j)*, 361(a), 726(a)-(b); *CRC 5.649*. Court form JV-535 is used for this purpose, as well as to document other findings and orders about educational decision-making. *CRC 5.649-5.650*; see also court form JV-535(A) (mandatory attachment containing additional education-related information, findings, and orders).

At the same time a court limits a parent or guardian's educational decision-making rights, it must appoint a "responsible adult" to make educational decisions for the child. *WIC 319(j)*, 361(a), 366(a)(1)(C), 726(b)-(c); see also *CRC 5.650*, 5.534(f). The California Rules of Court refer to this person as an "educational rights holder" (ERH). *CRC 5.502(13)*; see also *CRC 5.649-5.651*. The appointment must be made regardless of whether the child has been identified as needing special education or other services. Before appointing someone who is not known to the child, the court must determine whether there is an adult who is known to the child who is available and willing to serve as the child's ERH. *WIC 319(j)(2)*, 361(a)(4), 726(c)(1); *CRC 5.650(c)(1)*.

The ERH has all of the educational decision-making rights normally held by a parent or guardian. See *CRC 5.650(e)-(g)* for a list of rights and responsibilities. The ERH is entitled to receive notice of and participate in court and related proceedings concerning educational matters and may use court form JV-537 to explain the child's educational needs to the

court. *CRC 5.650(j)*.

Educational decision-making rights can be temporarily limited prior to the disposition stage of a court case and as early as the initial detention hearing if the child's parent or guardian is unavailable, unable, or unwilling to make educational decisions (and other conditions are met). A temporary limitation expires at the end of the disposition hearing or when the petition is dismissed, but the court may later renew the limitation, if appropriate. *WIC 319(j)*; *CRC 5.649(b)*, 5.650(g)(1)(A).

At any time, anyone with an interest in the child may ask the court to limit or transfer educational decision-making rights by submitting court forms JV-180 and JV-535 to the court. See *WIC 388*, 778. Moreover, the child's attorney, social worker, or probation officer can request a hearing for appointment of a new educational decision-maker using court form JV-539. *CRC 5.650(d)(4)*, (g)(2).

A legal guardian appointed by a juvenile or probate court has the right to make educational decisions unless the court specifically orders otherwise. *CRC 5.650(e)(2)*; *34 CFR 300.30(a)(3)*, (b)(2); *EC 56028(a)(3)*.

- **LEA-Appointed Decision-Makers**

If the court is unable to locate a responsible adult for the child and the child either has been referred to the LEA for special education or has an IEP, the court must refer the child to the LEA for appointment of a "surrogate parent." *WIC 361(a)(4)*, 726(c)(1); *GC 7579.5-7579.6*; *CRC 5.650(a)(2)(A)(i)*, (d); see also *WIC 319(j)(3)*, (5). The LEA must make reasonable efforts to appoint a surrogate parent within 30 days. *GC 7579.5(a)*. It must select a relative caretaker, foster parent, or court-appointed special advocate (CASA) if one is willing and able to serve. *GC 7579.5(b)*.

When a surrogate parent is appointed, resigns, or an LEA terminates the appointment, replaces, or appoints another surrogate parent, it must use court form JV-536 to tell the court, the child's attorney, and the child's social worker or probation officer about appointments and changes. *CRC 5.650(d)*.

A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in other matters relating to the provision of a



Educational Decision-Making for Foster Youth (continued)

free appropriate public education to the individual. *EC 56050(b)*. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services. *EC 56050(b)*.

• Court as Educational Decision-Maker

If educational decision-making rights have been limited and none of the above options apply, the court itself may make educational decisions for a dependent child with the input of any interested person. *WIC 319(j)(3)*, *361(a)(4)*; *CRC 5.650(a)(2)*. Please refer to the section below regarding who cannot be appointed as an Educational Decision-Maker.

FOSTER PARENTS

If the juvenile court has limited the right of the parent or guardian to make educational decisions on behalf of a youth aged 16 or older and the youth has been placed in a planned permanent living arrangement (described in *WIC 16501(i)(2)*), *EC 56055* authorizes a foster parent to exercise parental rights for the duration of the parent/foster child relationship in matters relating to identification, assessment, instructional planning and development, educational placement, IEP development, and all other matters relating to the provision of a free appropriate public education for the foster child. *EC 56055* authorizes the foster parent to consent in writing to the IEP, including nonemergency medical services, mental health treatment services, and occupational or physical therapy. It is encouraged that court form JV-535 be used in these cases to ensure coordination of services and case planning.

WHO CANNOT BE EDUCATIONAL DECISION-MAKER

• Court-Appointed Decision-Makers

A person who has a conflict of interest cannot be appointed to make educational decisions. A conflict can arise from “any interests that might restrict or bias” the person’s ability to make educational decisions, including but not limited to the receipt of compensation or attorney’s fees for the provision of services pursuant to these sections of the law. A foster parent is not deemed to have a conflict of interest solely because they receive funding for the care of the child. *WIC 361(a)(2)*, *726(c)*; see also *CRC 5.650(c)(2)*. Moreover, under federal special education law, when the court appoints an

educational decision-maker for a foster child with a disability, it may not appoint an employee of the California Department of Education, the LEA, or any other agency that is involved in the education or care of the child. *20 USC 1415(b)(2)(A)*; *34 CFR 300.519(d)(2)*. Therefore, the social worker, probation officer, or group home staff serving the student may not be appointed.

• Surrogate Parents

As above, a person who has a conflict of interest cannot be appointed to make educational decisions. A surrogate parent may not be employed by the California Department of Education, the LEA, or any other agency involved in the education or care of the child. *20 USC 1415(b)(2)(A)*; *34 CFR 300.519(d)(2)*; *GC 7579.5(i)-(j)*.

RESPONSIBILITIES OF EDUCATIONAL DECISION-MAKERS

In addition to the responsibilities listed above specific to court- or LEA-appointed educational decision-makers, both types are required to meet with the child for whom they are making educational decisions, investigate the child’s needs and whether they are being met, and, for each court review hearing, provide information and recommendations concerning the child’s educational needs either in person or by submitting them in advance to the court or social worker. *WIC 361(a)(6)*, *726(c)(2)*; *CRC 5.650(f)(2)-(4)*.

LENGTH OF COURT APPOINTMENTS

With the exception of temporary appointments prior to the disposition stage of a court case (see above), an appointment to make educational decisions lasts until *one* of the following occurs:

- The youth reaches 18 years of age, or is attending an institution of postsecondary education, at which time the youth holds their own educational rights (e.g., see *EC 49061(a)*, *56041.5*; for a definition of “eligible student,” see <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>), unless the youth chooses not to make their own educational decisions or has been deemed by the court to be incompetent to do so.
- Another adult is appointed to make educational decisions.
- The right of the parent or guardian to make educational decisions is fully restored.

- A successor guardian or conservator is appointed.
- The youth is 16 years of age or older and is placed in a planned permanent living arrangement, at which time the foster parent, relative caretaker, or nonrelative extended family member has the right to make educational decisions, so long as the parents’ or guardian’s educational decision-making rights previously were limited and the current caregiver is not specifically prohibited by court order from making the child’s educational decisions.

WIC 361(a)(1), *726(b)*; *CRC 5.650(g)*; see also *EC 56055*, *CRC 5.534(f)(2)*, *5.650(a)(1)*, *(b)*, *(e)(1)*.

If an appointed ERH resigns from the appointment, the ERH must tell the court and the child’s attorney and may use the court form JV-537 to do so. *CRC 5.650(g)(2)*.

DEVELOPMENTAL SERVICES DECISION-MAKERS

Much—but not all—of the information in this fact sheet about court-appointed educational decision-makers for foster children also applies to the process for appointing an adult to make decisions about services for children and for non-minor dependents with developmental disabilities, as established by SB 368 (2011). See *WIC 319(j)*, *361(a)*, *726(b)-(c)*; *CRC 5.502(13)*, *5.534(f)*, *5.649-5.651*. Developmental disabilities include intellectual disability, cerebral palsy, epilepsy, autism, and other disabling conditions found to be closely related to intellectual disability. *WIC 4512(a)*. See *WIC 4512(b)* for a definition and list of common services for people with developmental disabilities. Such services often are provided by or through the California Department of Developmental Services and its regional center system.

Please note that children receiving early intervention services through regional centers under Individual Family Service Plans are receiving education services and must have ERHs. Developmental Services Decision-Makers cannot make education decisions for these children.

See <https://www.dds.ca.gov/rc/> for more information.

Early Care and Education



California Foster Youth Education Task Force

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CALIFORNIA EARLY CARE AND EDUCATION PROGRAMS

Early education is recognized as a key to children's later education success and a stabilizing force for families. California's Early Care and Education (ECE) system consists of a patchwork of public, private non-profit, and private for-profit ECE service providers. The California Department of Social Services (CDSS), Child Care and Development Division funds ECE through voucher-based programs and center-based programs. CDSS contracts with public and private non-profit agencies called Alternative Payment Programs (APPs) to administer vouchers that allow families to pay ECE private providers at a cost that is more affordable to them. APPs determine a family's eligibility for vouchers, and whether and at what level of priority the family must be placed on a waiting list to receive a voucher. Families whose children receive child protective services or who are at risk of abuse, neglect, or exploitation have top priority. After that, the waitlist is in order of lowest income first. If two families have the same income, a family whose child has a disability (exceptional needs) has priority. Starting January 1, 2023, if no child has a disability, a family whose primary home language is not English has priority. *SB 1047 (Limón), WIC 10271(b).*

The APP assesses what family fee (share of cost), if any, is owed. Qualifying parents, resource families and caregivers may use their child care voucher to help pay for child care in a family child care home, child care center, or with a family, friend, or neighbor (FFN care). The APP then pays the selected ECE provider directly or the parent who pays the provider. The use of vouchers is intended to provide families access to the many types of child care and allow them to choose the type most suited to their needs. *WIC 10225-10234.* If paid with state or federal funding, unless a close relative, the FFN provider must pass a criminal background check (e.g., see *CA Health & Safety Code 1596.792, 1596.66, 1596.67*). If the child is under the jurisdiction of the county, the resource parent must check with the social worker about whether they are allowed to use FFN in that county.

CDSS also funds center-based programs through contracts with child care centers, groups of licensed family child care providers called family child care home education networks (FCCHENs), and with public agencies

that subcontract with centers. Families apply directly to these child care centers, which individually determine eligibility for and placement on any wait lists for the individual program, and any family fee for participation.

Families may find voucher-based, center-based, and private-pay ECE programs through their local child care resource and referral agency (R&R). R&Rs, located in every county, help families find child care that best fits their needs. Families seeking child care should contact their local R&R for assistance finding child care at <http://www.rrnetwork.org>. Most agencies that act as an R&R also act as an APP to administer voucher-based programs. R&R agencies can help families find licensed child care providers who will accept the vouchers. They also know what stand-alone center-based programs exist in the community.



Families of children receiving protective services through the county child welfare department or who are identified as abused, neglected, or exploited or at risk thereof are eligible for publicly funded child care without income or other need requirements, and these families receive top priority on child care waiting lists. *WIC 10271(a)-(b)(1).* To qualify for child care under this category, families must receive a written referral from a legal, medical, or social services agency; an LEA liaison for homeless children and youth, designated pursuant to *42 USC 11432(g)(1)(I)(ii)*; a Head Start program; or an emergency or transitional shelter. *WIC 10271(b)(1).* Families also automatically qualify for child care if they are experiencing homelessness. *WIC 10271(a)(1)(A)(iii) & (a)(1)(B)(i).* If the child does not meet these requirements, families also qualify if they earn below 85% of the state median income or receive cash assistance and have a need for child care such as working, attending school, or searching for a home or job. *WIC 10271(a)-(b).* Children up to age 13 and children with severe disabilities up to age 21 may receive state and

federally funded child care. *WIC 10213.5(i), 10260(b), (d)(2).* Many programs streamline enrollment for children receiving child welfare services.

Starting January 1, 2023, once a family has established initial eligibility for child care, they have 24-month continuous eligibility. *SB 1047 (Limón), WIC 10271(h).* This means that they are considered to meet all eligibility and need criteria for at least the next 24 months and will not have to recertify for at least 24 months. Even if the family's circumstances change, such as their work hours or income, they do not need to report those changes within the 24-month period. The only exception to this is if the family's income exceeds 85% of the state median income (SMI) and they qualified for child care based on their income, then they must report this change. If the agency determines they earn over 85% of SMI, they no longer qualify for child care funding. *WIC 10271(h).*

California made several temporary changes to the child care rules through the 2022-23 state budget in response to COVID-19. Child care family fees are waived until June 30, 2023. [Child Care Bulletin \(CCB\) 22-14](#). Child care providers are also paid based on a family's maximum certified hours of care, including days that the child does not attend care, until June 30, 2023. [CCB 22-15](#).

California State Preschool Program

The California Department of Education's Early Education Division funds California State Preschool Program (state preschool) centers for 3- and 4-year-olds through local educational agencies (LEAs), colleges, community-action agencies, and private nonprofit agencies. State preschool offers both part-day and full-day services that provide a core class curriculum that is developmentally, culturally, and linguistically appropriate for children ages 3 and 4. The program also provides meals and snacks to children, parent education, referrals to health and social services for families, and staff development opportunities to employees. Families must meet the same eligibility requirements as for other CDSS child care programs (like the previous section) but the income eligibility limit is different. For state preschool, families who qualify based on income must make at or below 100% of the state median income. *EC 8213.* Families can also qualify for state preschool if they receive cash assistance, experience homelessness, have a

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child who receives child protective services or experiences or is at risk of abuse, neglect, or exploitation, or has a disability. These families qualify regardless of income. *EC 8208(a)-(b)*. Families in state preschool are not required to have a “need” for part-day care. *EC 8208(a)*. For example, the parents do not need to work or attend school to enroll their child in a state preschool program. But they do need to show a need for child care to have full-day care. *EC 8208(d)*. The 24-month eligibility rules and similar waiting list rules described in the previous section also apply to California State Preschool. *EC 8208(e)*.

Other Early Education Options Include the Following:

- **California Work Opportunity and Responsibility for Kids (CalWORKs) Child Care**

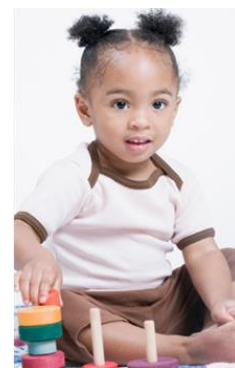
CDSS also administers CalWORKs child care, which has three stages. Families, resource parents, and caregivers who receive CalWORKs cash assistance are entitled to immediate, continuous CalWORKs Stage 1 child care for 12 months or until transfer to the CalWORKs Stage 2 child care program. *WIC 11323.2(a)(1)(B)*. To qualify, the family, resource parent, or caregiver must be working or engaging in a Welfare-to-Work (WTW) activity such as attending parenting classes; education-related appointments for their child; domestic violence, substance use or mental health counseling; court and medical appointments; or searching for a job or home. *WIC 11323.2(c)*. Because Stage 1 is an entitlement, qualifying parents and caregivers should not be placed on a child care waiting list. They have good cause for not participating in their WTW activity if they cannot find suitable child care. The County Welfare Office is the starting point for families seeking CalWORKs assistance, including child care.

Families, resource parents, and caregivers who received CalWORKs cash assistance or a diversion payment within the past two years are eligible to receive assistance paying for child care under the CalWORKs Stage 2 program, which is also considered an entitlement program. Just like with Stage 1 CalWORKs child care, families should not be put on a waitlist for Stage 2 CalWORKs child care either. In order to qualify for Stage 2, families must have received cash assistance or a diversion payment within the past two years *and* fall into one of the following eligibility categories. One eligibility category is for families with a child who receives protective services through the county or who has been identified as abused, neglected, or

exploited or is at risk thereof. To qualify for child care under this category, families must receive a written referral from a legal, medical, or social services agency; an LEA liaison for homeless children and youth, designated pursuant to *42 USC 11432(g)(1)(J)(ii)*; a Head Start program; or an emergency or transitional shelter. Families also qualify for Stage 2 child care if they are experiencing homelessness. *WIC 10271(a)*. Families who qualify based on the at-risk category or the homelessness category do not need to show that they need child care in order to work, go to school, or any other reason. If the child does not meet these requirements of the homelessness or at-risk categories, families can still qualify for Stage 2 child care if they meet the following three requirements: (1) they received cash assistance or diversion within the past 2 years; (2) they earn below 85% of the state median income or currently receive cash assistance; *and* (3) they have a need for child care such as working, attending school, or searching for a home or job. *WIC 10271(a)-(b)*. Families should be seamlessly transferred between the CalWORKs child care stages without a break in services. *WIC 10370(b)-(c)*. Depending on sufficient funding, families, resource parents, and caregivers are transferred from CalWORKs Stage 2 in the 24th month to Stage 3 child care.

CalWORKs child care is provided for children through age 12, and up to age 21 for children who have disabilities. *WIC 11323.2(a)(1)*. CalWORKs child care payments are in the form of a voucher that CalWORKs participants can use to pay the child care provider or center of their choice. The local Child Welfare Agency or Alternative Payment Program paying for CalWORKs child care usually makes the voucher payment directly to the family child care provider, child care center, or family, friend, or neighbor providing child care. *WIC 10370-10376.5, 11323.1-11323.8*.

CalWORKs Stages 2 & 3 child care also have 12-month eligibility. That means that once a family is certified for CalWORKs child care, they are considered to meet all eligibility and need requirements for not less than 12 months. They do not need to report any changes to income or schedule unless they qualified based on being at or under 85% of the state median income and their income exceeds 85% of the state median income. Families who qualified for CalWORKs child care based on other eligibility categories, such as homelessness, at-risk status, or being in receipt of aid, do not need to report changes in income and would not lose their child care if their income exceeded 85% of the state median income. *WIC 10271(h)*.



- **Early Head Start and Head Start**

Early Head Start and Head Start are federally funded and administered programs promoting school readiness by enhancing social and cognitive development. Early Head Start provides family-centered services that facilitate child development, support parental roles, and promote self-sufficiency for children from birth to age 3. It also serves pregnant women with low incomes. Head Start provides part-day preschool programs for children ages 3 to 4, as well as educational, social, health, and other services, with a particular focus on early reading and math skills. Children in foster care are eligible and have a priority for admission in both programs, regardless of their family's income. To receive funding, all new Head Start programs must have a plan to meet the needs of children in foster care, including transportation. *42 USC 9831, 9840a; 45 CFR 1302.20-1302.24, 1305.2*.

Children of families who are experiencing homelessness, receiving public assistance such as TANF or SSI, or who have incomes below the federal poverty guidelines also qualify for Early Head Start and Head Start. *45 CFR 1302.12*. The local R&R can help families locate Early Head Start and Head Start programs in their community.

- **Emergency Child Care Bridge Program for Foster Children and Parenting Foster Youth (Bridge Program)**

Adopted in 2017, the Bridge Program helps foster families and parenting foster youth access high-quality child care for foster children by providing (1) an emergency, time-limited voucher to help them pay for child care for up to 6 months, with an extension to 12 months, as needed, and over 12 months for a compelling reason; (2) child care navigation support, with navigators helping them to immediately access child care and then working continuously with them to transition or stabilize the children in long-term, high-quality child care; and (3) training for the child care workforce in trauma-

Early Care and Education (continued)

responsive best practices to better meet the unique needs of abused and neglected children. *WIC 10219(a)(5), 11461.6.* Foster families and parenting foster youth can receive the Bridge Program voucher for foster children through age 12, and if the child has a disability, they may qualify to receive child care vouchers until age 21. Families obtain Bridge Program vouchers through the local Child Welfare Agency.

PART C OF IDEA & THE CA EARLY INTERVENTION SERVICES ACT

To be eligible for federal funding for early intervention programs under the Individuals with Disabilities Education Act, reauthorized under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), states must ensure that appropriate early intervention services are available to all infants and toddlers with developmental delays or at risk of developing such delays who are in foster care or in the custody of a child welfare agency. *34 CFR 303.101(a)(1).*

In addition, states receiving funding under Child Abuse and Prevention Treatment Act (CAPTA) must establish procedures to refer every child under the age of 3 who has been involved in a substantiated case of abuse or neglect to early intervention services funded under Part C of the IDEA. *42 USC 5106a(b)(2)(B)(xxi).*

California's Early Start Program for Children Ages 0 to 3

The California Early Intervention Services Act was California's response to federal legislation requiring early intervention services. It created the Early Start Program designed to ensure that infants and toddlers with developmental delays or at risk of developing such delays and their families receive early intervention services in a coordinated, family-centered system that is available statewide through the state's 21 regional centers. Regional centers are private, independent non-profit organizations that contract with the California Department of Developmental Services to coordinate and procure services for eligible individuals. *WIC 4620.* These include individuals eligible for early intervention services under Part C of the IDEA. *GC 95014(b)(1) et seq.*

Early Start Eligibility

The Early Start program serves children under the age of 3 years old. To be eligible for services, the regional center must conduct a

developmental evaluation to determine eligibility in five developmental domains including cognition, physical/motor, communication, social/emotional, and adaptive behavior, and conduct comprehensive multidisciplinary assessments to determine the need for services (e.g., speech and language assessment, occupational therapy assessment, physical therapy assessment). The evaluation and assessment(s) are also used to establish baselines from which to draft "outcomes" (i.e., goals) in an eligible child's Individualized Family Service Plan (IFSP). *GC 95020.* Children can be eligible for services under the following categories (*GC 95014*):

• Category 1: Developmental Delay

Children qualify for Early Start if they have a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social/emotional development; or adaptive development. A developmental delay is defined as "a significant difference between the expected level of development for their age and their current level of functioning," and must be determined by a qualified evaluator. A difference between expected and actual levels of development is significant if the child is delayed by 25% in one or more developmental areas. *GC 95014(a)(1).*

• Category 2: Established Risk

Children may be eligible for Early Start services if they have a condition diagnosed by a qualified individual that has a high probability of resulting in developmental delay. *GC 95014(a)(2).*

• Category 3: High Risk

Children are also eligible for Early Start services if they are at high risk of having substantial developmental disabilities due to biomedical risk factors, such as significant prematurity or prenatal substance exposure. *GC 95014(a)(3).*

Responsibility for Services

Infants and toddlers who have only hearing, vision, or severe orthopedic impairments (or a combination of these) are served by LEAs through coordination with the Special Education Local Plan Area (SELPA). All other children qualifying for Early Start will receive services through one of California's regional centers. The LEA or regional center will assign all children and families referred for evaluation and assessment or determined eligible for Early Start services a service coordinator approved by the

Department of Developmental Services to coordinate the services provided. *GC 95018 and 17 CCR 52120(a).*

Early Start Referrals

After receiving a referral to Early Start, the regional center has 45 days to complete an evaluation and assessments, hold a meeting to determine eligibility, and develop an Individualized Family Service Plan (IFSP). *GC 95020; 17 CCR 52086.*

The Individualized Family Service Plan (IFSP)

The family, including the child's educational rights holder, service coordinator, and service providers must meet at least every six months, or more often if necessary, to determine whether the child is making progress and whether any changes need to be made to the IFSP. An IFSP should include:

1. A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments;
2. A statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the child;
3. A statement of the major outcomes expected to be achieved for the infant or toddler and family;
4. The criteria, procedures and timelines used to determine progress towards achieving the outcomes and whether modifications or revisions are necessary;
5. The services to be provided, including the duration, location, and frequency of services to be provided (e.g., one hour per week of speech and language therapy provided in home);
6. The agency responsible for providing the identified services;
7. The name of the child and family's service coordinator;
8. The steps that will be taken to ensure the child and family receive appropriate services once the child reaches age 3 (and potentially transfers to IEP services by an LEA); and
9. The projected dates for the initiation of services provided and the anticipated duration of those services. *GC 95020(d).*

Early Care and Education (continued)

Available Services, Including ECE

Services and supports paid for through the Early Start program may include, where appropriate, ECE in integrated community-based programs, and therapies and support services in those community ECE program settings. Among the many specified supports are family training, health services (includes catheterization, tracheostomy care, tube feeding, changing of dressings and colostomy bags, and physician consultation), nursing services, occupational therapy, physical therapy, psychological services, service coordination services, sign language and cued language services, social work services, special instruction, speech and language services, transportation and related costs, and respite and other family support services. *20 USC 1432(4)(E); 34 CFR 303.13 & 303.16; 17 CCR 52000(b)(23).*

They further include group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development; and opportunities for infants to socialize and participate in play and exploration activities. *EC 56426.2(a)(2)-(3).*

The state must provide these services, to the maximum extent appropriate, in natural environments, which means settings that are natural or typical for a same-aged infant or toddler without a disability and may include the home or community settings. *34 CFR 303.13(a)(8), 303.26, & 303.126.* Since July 2009, the regional center must consider the purchase of neighborhood preschool services and needed qualified personnel, in lieu of infant development programs. *GC 95020(d)(5)(B)(ii).*

Transition Requirements

For all children receiving early intervention services, the state must ensure a smooth and effective transition to preschool or other appropriate services (for toddlers with disabilities), or to exiting the program. That includes the responsibility to develop and implement an Individualized Education Program (IEP) by the child's third birthday, if the child is eligible for IDEA Part B preschool services. *34 CFR 303.209(b)(1)(i), 300.101(b), 300.124(a) & (b); EC 56426.9.*

Due Process Procedures

Most SELPAs throughout California utilize a conflict resolution support process referred to as Alternative Dispute Resolution (ADR). Any educational rights holder who believes the LEA is not appropriately assessing or serving a child

may request ADR support from the SELPA. This first level of collaborative problem-solving preserves relationships, ensures a focus on the needs of the child, and supports ongoing teamwork focused on the resources available for the child.

If a child's educational rights holder disagrees with the services offered by the IFSP, or if the LEA or regional center refuses to evaluate or offer services to a child, the educational rights holder can request mediation or file for a due process hearing with the Office of Administrative Hearings (OAH). OAH Complaints should be filed at: Office of Administrative Hearings, Attention: Early Start Intervention Section, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833; phone (800) 515-2229, fax (916) 376-6318.

If anyone believes that the agency responsible for providing services written in the child's IFSP is not meeting its obligations, they can file a complaint with the Department of Developmental Services (DDS). DDS Complaints should be filed at: Department of Developmental Services, Attention: Appeals, Complaints and Projects Section, 1215 O Street, MS 8-30, Sacramento, CA 95814; phone (916) 651-6309, fax (916) 654-3641.

All complaints, mediation requests, and due process hearing requests should include:

1. The name, address, and phone number of the person filing the complaint;
2. A statement that the regional center or a service provider receiving funds under Part C of the Individuals with Disabilities Education Act has violated a state or federal law or regulation regarding early intervention services;
3. A statement of facts upon which the violation is based;
4. The party responsible; and
5. A description of the voluntary steps taken to resolve the complaint (if any).

Once the Department receives a complaint, it has 60 days to investigate and issue a written decision. *17 CCR 52170-52171.* A mediation must be held within 30 days of request. *17 CCR 52172.* An administrative law judge will hear both sides and make a decision within 30 days of a due process complaint being filed. *17 CCR 52174.*

Regional Center Transfers

When a foster child changes home placements, and this results in a change in regional center or LEA, their social worker must immediately send

a Notice of Relocation to the child's sending regional center (the regional center where the child received services before they changed homes). The Notice of Relocation must include the child's name, date of birth, new address, caregiver and ERH names and contact information, and court of jurisdiction.

Upon receiving a Notice of Relocation, the sending regional center must immediately send to the receiving regional center (the regional center that will serve the child in their new home) a Notice of Transfer and all records needed to provide services for the child in the new placement, including assessments. The Notice of Transfer must include the same information as the Notice of Relocation, plus a copy of the current IFSP and the contact information of the child's social worker.

The sending regional center is responsible for funding services for the child in their new placement until the receiving regional center has effectively assumed responsibility over the case. Throughout the entire transfer process, services must be provided to the child with no breaks or delays. To aid in this, the receiving regional center must provide information about available service providers to the sending regional center within 14 days of receiving the Notice of Transfer.

A receiving regional center has effectively assumed responsibility when all the following occurs: (1) a new service coordinator has been assigned to the child's case; (2) the IFSP from the sending regional center is adopted or, if changes to the sending regional center's IFSP are necessary to meet the child's needs or services are not available in the new location, a new or revised IFSP has been developed within 30 days of the Notice of Transfer; and (3) the child is receiving the services and supports in the adopted, new, or revised IFSP.

If the child has been found eligible for Early Intervention by the sending regional center but does not yet have an IFSP, the receiving regional center must also consider the child eligible and must develop an initial IFSP within 30 days of the Notice of Transfer. If all services in the child's IFSP have not started in their new location within 30 days of the Notice of Transfer, the sending regional center must report in writing to the court, social worker, and the child's ERH, regardless of which regional center is at fault. The report must state what services are being provided to the child and the steps being undertaken to secure any services identified in the child's IFSP but not yet provided. The sending regional center must continue reporting at 30-day intervals until all

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services in the child's IFSP have started. 17 CCR 52111; WIC 4643.5; Dept. of Developmental Services, [Inter-Regional Center Transfer Guidelines, Dec. 8, 1998](#).

PRESCHOOL SERVICES FOR CHILDREN WITH DISABILITIES AGES 3 TO 5

All LEAs are required to provide special education services for eligible children with disabilities between the ages of 3 and 5 years old. *EC 56001(b) and 56440(c)*. These services are documented in an Individualized Education Program (IEP).

Eligibility

To be eligible for preschool special education services under IDEA Part B, a child must meet one of the 13 special education eligibility criteria. Additionally, the child must also need specially designed instruction and services, and must have needs that cannot be met by modifying a regular environment in the home or school (or both) without ongoing monitoring and support. A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and their educational needs are primarily due to:

1. Unfamiliarity with the English language;
2. Temporary physical disabilities;
3. Social maladjustment; or
4. Environmental, cultural, or economic factors. *EC 56441.11(b)-(c)*.



Availability of Preschool Services in Integrated, Community-Based ECE Programs

A child who is eligible for IDEA preschool services may receive them at a regular public or private nonsectarian preschool program, state center-based ECE program (child development center), a family day care home, the child's regular environment that may include the home, a special site where preschool programs for both children with disabilities and children who are not disabled are located close to each other and have an opportunity to share resources and programming, a special education preschool program with children who are not disabled attending and participating for all or part of the program, or a Head Start program under contract with the state. *EC 56441.4, 56443(a)*. The preschool services site must meet "least restrictive environment" (LRE) requirements. *34 CFR 300.116(a)(2)*. If the LEA does not generally offer preschool programs to children without disabilities, meeting LRE requirements might involve the LEA paying for supplemental special education services while the child attends a public center-based preschool program serving typically developing children, such as a CDSS-contracted center or Head Start. Or it might be met through the LEA paying for the child to attend and receive special education services at a private preschool. *EC 56441.4 & 56443(a)*. How the LRE requirement should be met is determined through the IEP.

Transition Services

Prior to transitioning a child receiving preschool special education services to grade school (kindergarten or first grade), an appropriate reassessment of the child must be conducted by the LEA to determine if the child is still in need of special education services. *EC 56445(a)*.

For more special education information, please refer to the Special Education Fact Sheet.

Special Education



California Foster Youth Education Task Force

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INTRODUCTION

Children in foster care have the same rights as all other students with regard to special education. Individuals with exceptional needs have a right to a free appropriate public education (FAPE) in the least restrictive environment (LRE).

WHAT IS SPECIAL EDUCATION?

Special education is specially designed instruction and related services to meet the unique educational needs of children with disabilities. *EC 56031*. Special education includes instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education. *EC 56031(a)*. Special education also includes related services, such as the following:

- Speech-language pathology services
- Audiological services
- Orientation and mobility services
- Adapted physical education
- Physical and occupational therapy
- Vision services
- Specialized driver training instruction
- Counseling and guidance services, including rehabilitation
- Psychological services
- Parent counseling and training
- Health and nursing services
- Social worker services
- Specifically designed vocational education and career development
- Recreation services
- Specialized services for low-incidence disabilities
- Interpreting services

EC 56363.

The local educational agency (LEA) in which a student resides is generally the LEA responsible for providing special education services, unless a child's educational rights holder (ERH) determines they will remain in their school of origin. When a child remains in their school of origin, the district of origin is responsible for providing special education services. *EC 56030*. Other LEAs responsible for providing special education may include:

- The Special Education Local Plan Area (SELPA) that serves the geographic area where the foster youth has been placed in a licensed children's institution or foster family home. *EC 56156.4*.

- The county office of education if the area is not served by a SELPA. *EC 56156.4*.
- Charter school. *EC 47641*.
- When a foster youth continues to attend their school of origin but is placed in a licensed children's institution or foster family home located in another LEA's boundaries, the school of origin is responsible for the daily provision of services, but the LEA in which the foster youth currently resides has responsibility for the provision of FAPE.
- When a foster youth's ERH determines the youth should retain connection to their school of origin, and the youth is placed for educational purposes in a nonpublic school (NPS) pursuant to their IEP, the NPS will continue to provide for the daily provision of educational and other authorized IEP services to ensure the provision of FAPE until such time that the student can return to the school of origin when a less restrictive environment becomes appropriate.

FEDERAL AND CALIFORNIA LAW

Individuals with Disabilities Education Act (IDEA):

The Individuals with Disabilities Education Act (IDEA), reauthorized under the Individuals with Disabilities Education Improvement Act of 2004, is the primary federal program that authorizes state and local aid for special education and related services for children with disabilities. *20 USC 1400 et seq.* The IDEA ensures that all children with disabilities have access to a FAPE that emphasizes special education and related services designed to meet each student's unique needs. IDEA's corresponding federal regulations are found at *34 CFR Part 300*.

California Law: California special education statutes, including the Education Code, Government Code, and Welfare and Institutions Code are aligned with the IDEA. *EC 56000, et seq.*

PARENT/EDUCATIONAL RIGHTS HOLDER (ERH)

Parent: For purposes of special education, a "parent" means any of the following:

- A biological or adoptive parent of a child.

- A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by a court order, and the youth is 16 years of age or older and is placed in a planned permanent living arrangement.
- A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with *WIC 361* or *726*.
- A surrogate parent who has been appointed pursuant to *GC 7579.5* or *7579.6*.
- A specific person(s) identified by a judicial decree or order identified to make educational decisions on behalf of the child (also called an educational rights holder or ERH). *EC 56028*.

See Fact Sheet on Educational Decision-Making for Foster Youth for more information.

IDENTIFICATION AND ASSESSMENT

Child Find: LEAs have a duty to identify, locate, and assess individuals with exceptional needs who may be entitled to special education services, actively and systematically. *20 USC 1412(a)(3); EC 56301(a)-(c), 34 CFR 300.111*.

Assessment

Referral for an assessment for special education starts the process of considering special education eligibility. A referral may be made by the child's parent or guardian, teacher or other service provider, social worker/probation officer, or foster parent, consistent with the limitations contained in federal law. *EC 56029*.

When a verbal referral is made, staff of the LEA shall provide assistance to ensure the request will be received in writing. *5 CCR 3021*. All referrals made by school staff shall be written and include (1) a reason for the referral and (2) documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay the timelines for completing the assessment plan or assessment. *5 CCR 3021*.

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In response to the request for an assessment, the LEA may provide: (1) a written refusal to assess or (2) an assessment plan. *EC 56321 and 56500.4*. If an assessment is to be conducted, the parent/ERH shall be given an assessment plan within 15 calendar days of the referral for assessment, not counting days between the regular school sessions, or school breaks of more than five days from the date of receipt of the referral, unless there is agreement in writing to an extension. *EC 56321*. If a child exhibits any evidence that they have a disability (e.g., mental health diagnosis or failing grades), they meet the legal standard of having a “suspected disability.” LEAs have a low threshold when they consider providing an assessment, and likely cannot refuse to conduct an assessment for a child with a “suspected disability.”

Generally, a child cannot be assessed without written consent of a parent/ERH. Exceptions may apply if:

- A child is a ward of the state, not residing with a parent under *34 CFR 300.300(a)(2)* (in limited circumstances) *20 USC 1414(a)(1)(D)*; or
- The LEA prevails at a due process hearing to obtain permission for an assessment that is not an initial assessment, or for reassessment if the LEA demonstrates it has taken reasonable measures to obtain consent and the parent has failed to respond. *EC 56321, 56381(f), 56506; 34 CFR 300.300(c)(2)*.

The parent/ERH has 15 calendar days to provide written consent to the proposed assessment. *EC 56321(c), 56043(b)*.

The initial Individualized Education Program (IEP) team meeting to determine eligibility must be held within 60 calendar days (not school days) of receipt of written consent to assessment, not including summer vacation or

school breaks of more than five days. *EC 56344(a), 56043(c)*.

When a child with a disability transfers from one LEA to another in the same academic year during an assessment process, the LEAs must coordinate expeditiously to ensure prompt completion of the full assessment. *20 USC 1414(b)(3)(D); EC 56320(i)*.

A parent/ERH has the right to obtain, at public expense, an independent educational evaluation (IEE) of the child from qualified specialists if the parent disagrees with the assessment conducted by the LEA. *EC 56329(b)*.

Eligibility for Special Education Services

Three conditions must be met:

1. The child has an impairment adversely affecting educational performance that requires special education.
2. The impairment fits into one of the qualifying categories of disability:
 - Intellectual Disability;
 - Hearing Impairment;
 - Deafness;
 - Speech or Language Impairment;
 - Visual Impairment (including blindness);
 - Deaf-Blind;
 - Emotional Disturbance;
 - Orthopedic Impairment;
 - Autism;
 - Traumatic Brain Injury;
 - Other Health Impairment;
 - Specific Learning Disability; or
 - Multiple Disabilities.
3. The need for special education must not be due to a lack of reading or math instruction or limited English proficiency. *20 USC 1401(3); 34 CFR 300.8; EC 56026*.

A complete reevaluation, followed by a triennial IEP meeting, must be conducted every three years, or more frequently upon request. *20 USC 1414(a)(2)(B); EC 56381 and 56043(k)*.

Age: Students may be eligible for special education from birth to age 22. Regional centers are required to provide special education/early intervention services from birth to age 3 (see Early Care and Education Fact Sheet), except LEAs provide services to children with solely low incidence disabilities including vision, hearing, or orthopedic impairments. LEAs are required to provide special education services for eligible students ages 3 to 22, or when the student receives their high school diploma, whichever comes first. Generally, a student must be found eligible for special education prior to their 19th birthday. *EC 56026*.

THE IEP MEETING

Individualized Education Program

An IEP is a written document for each individual with exceptional needs that describes the student’s present levels of academic achievement and functional performance, learning goals, school placement, and services. *EC 56032, 56345, and CFR 300.320*. The IEP is developed, reviewed, and revised by the “IEP team” during “IEP meetings.” The IEP document is a contract that guarantees what services a student is required to receive.

When the student reaches age 16, the IEP shall address postsecondary goals and transition services by adding an individual transition plan (ITP). *EC 56341.5(e), 56043(g)(1), 56345, 56345.1*.

As appropriate and necessary, the LEA must provide opportunities to involve students with disabilities in nonacademic and extracurricular activities, including athletics, recreational, special interest groups/clubs, and employment. *EC 56345.2*.

Who Attends? The IEP team consists of one or both parents/ERH, at least one regular education teacher of the student, at least one special education teacher of the student, an LEA representative who is designated to grant or refuse any request made by the ERH, an individual who can interpret any assessments that may have been conducted, other individuals with expertise or knowledge about the student’s needs invited at the discretion of the LEA or ERH (e.g., social worker), and when appropriate, the student. *20 USC 1414(d)(1)(B); 34 CFR 300.321; EC 56341*.

What’s an IEP Meeting? At the IEP meeting, a student’s eligibility for special education services under IDEA is determined. If a student is found eligible, then an IEP document and plan is developed. The written IEP includes measurable goals and objectives, modifications and accommodations, individualized related services, and behavioral plans, where necessary. *20 USC 1414(d); EC 56345; 5 CCR 3040(b)*.

The LEA shall schedule the IEP meeting at a mutually agreed-upon time and place for LEA participants and the parent/ERH. *EC 56341.5(c)*. If the parent/ERH cannot attend the IEP meeting, with their consent the LEA shall accommodate the parent/ERH’s participation with other methods, such as a video or telephone conference call. *EC 56341.5(g)*.

A parent/ERH has the right to audio or electronically record an IEP meeting with 24-

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hour notice to the LEA. *EC 56321.5, 56341.1(g)*. The LEA is responsible for taking any action necessary to ensure that the parent/ERH understands the proceedings at a meeting, including arranging for an interpreter for the hearing impaired or a foreign language interpreter. *EC 56341.5(i)*.

To Agree or Disagree? If the parent/ERH needs time to think over or disagrees with part of an IEP plan, they do not have to sign the document at the IEP meeting. Parents have the right to withhold consent to the IEP document in part or in its entirety. Any part of the IEP document to which the parent/ERH does not consent cannot be implemented and may become the basis for a due process fair hearing or other dispute resolution option (e.g., a SELPA or LEA-level alternative dispute resolution process). Any part of the IEP that is agreed to should be clearly written on the document. The child's ERH must sign the IEP document before any services can begin. *20 USC 1414; EC 56346*.

Timelines

A student's IEP must be reviewed at least once annually, or more frequently upon request by the ERH or school. *20 USC 1414(d)(4); EC 56341.1, 56343, 56043*. If a parent requests an IEP meeting outside of the annual review, the LEA has 30 calendar days to hold the IEP meeting. *EC 56343.5*.

When a student who has an IEP is transferred from LEA to LEA within the state, the new LEA shall provide "comparable" services to the existing IEP for the initial 30 days of enrollment. At that time, the LEA shall adopt the previous IEP or must present a new offer of FAPE for the parent/ERH's consent. *EC 56325*. Additional assessment may be suggested to ensure that any new offer of FAPE includes updated information on the student's assessed needs and the goals for the IEP document.

PLACEMENT AND SERVICES

Least Restrictive Environment

FAPE must be provided in the Least Restrictive Environment (LRE). Children with disabilities are to receive an education to the maximum extent appropriate with non-disabled peers and are not to be removed from regular classes unless, even with supplemental aids and services, education in regular classes cannot be achieved satisfactorily. *20 USC 1412(a)(5)(A); EC 56040.1*. In California, to determine whether a placement represents the LRE for a particular student, the Ninth Circuit Court of Appeals stated a four-factor balancing test, in which the court

considers: (1) the educational benefits of placement full-time in a regular class; (2) the non-academic benefits of such placement; (3) the effect the student has on the teacher and children in the regular class; and (4) the costs of mainstreaming the student. *Sacramento City Unified Sch. Dist., Bd. of Educ. v. Rachel H. by & Through Holland, 14 F.3d 1398, 1404 (9th Cir. Cal. Jan. 24, 1994)*.

Continuum of Options

The spectrum of placement options moves from least restrictive to most restrictive:

- Least restrictive placements include full inclusion and mainstreaming with specifically designed instruction and/or related support.
- More restrictive placements may include a specialized setting and related supports.
- Most restrictive placements may include a non-public school program, residential placement, a home hospital program, or services provided in a one-on-one structure.

Nonpublic Schools

A nonpublic school (NPS) is a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an IEP. The school must be certified by the California Department of Education (CDE) and meet certain standards set by the Superintendent and Board of Education. *EC 56034*. All NPS must prepare a School Accountability Report Card (SARC) in the same manner as public schools and include all the same data. *EC 56366(a)(9)*. A list of NPS can be found on the CDE's website at <https://www.cde.ca.gov/sp/se/ds/>. NPS are held to the same standards as public schools, including teacher credentials and access to standards-based curriculum, extracurricular activities, and support services. *EC 56366.1, 56366.10*. They are also held to a high accountability standard through regular reports and visits. *EC 56366, 56366.1*.

A student shall not be placed in an NPS unless the severity of the disability is such that education in a regular class with accommodations and modifications cannot be achieved satisfactorily. *EC 56040.1*. The student must have an IEP that requires an NPS placement as the LRE and the student's ERH must agree to this placement prior to placement in an NPS. *EC 56342.1, 56320*.

When a student is placed in a licensed children's institution (LCI) or Short-Term Residential Therapeutic Program (STRTP) with an on-grounds NPS, the student may attend the on-

grounds school only if the IEP team has determined that there is no appropriate public program in the community, the on-grounds program is appropriate and can implement the student's IEP, and the ERH has consented to the placement through the IEP process. *2 CCR 60510(c)(2)*.

At least annually, the LEA must consider whether or not the needs of the student continue to be best met at the NPS and whether changes to the IEP are necessary, including whether the student may be transitioned to a public school setting. *EC 56366(a)(2)(B)(ii)*. An LCI or STRTP cannot require that a student be identified as an individual with exceptional needs or have an IEP as a condition of residential placement or admission. *EC 56155.7*.

If the student does have an IEP, the LCI cannot require attendance at an NPS owned or operated by an agency associated with the institution. Those services may only be provided if the LEA determines that appropriate public educational programs are not available and the student's ERH agrees to NPS placement in the IEP process. An LCI or STRTP cannot refer a student to or place a student in an NPS. *EC 56366.9*.

An LCI or NPS may not require as a condition of placement that educational authority for a student be designated to that institution, school, or agency, allowing it to represent the interests of the child for educational and related services. An LCI cannot hold educational rights for a youth because it would represent a conflict of interest. *EC 48854*.

School-Based Mental Health Services (SBMH)

IDEA requires that schools provide the services necessary for a child to access and benefit from their education. School-based mental health services are provided to those students whose social and emotional functioning interferes with their ability to access their education. In such cases, the IEP team may address the social and emotionally based needs by providing:

- Assessment of mental health needs, including interpretation of assessments and integration of information in service planning;
- Consultation with IEP team providers, student, family, and other staff to develop an appropriate program to serve the youth;
- Positive behavior intervention, including appropriate behavioral support;
- Assessment for and administration and management of medications; and

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- Specialized placements such as Day Treatment, NPS, or STRTP placement.

This list is not exhaustive. *34 CFR 300.34(a), (c)(2), (c)(8), (c)(10), (c)(14), 300.104; EC 56363(a), (b)(9), (b)(10), (b)(11), (b)(13).*

Counseling services are provided by qualified social workers, psychologists, school counselors, or other qualified personnel and may include therapeutic counseling when a student requires that service. *34 CFR 300.34(c)(2).*

Schools may call these services other names like “educationally related mental health services.” Regardless of what an LEA calls SBMH, they should understand what is being asked for when receiving a request for SBMH services for youth.

Functional Behavioral Assessment (FBA)

A functional behavioral assessment (FBA) is an assessment of a student’s maladaptive behavior. The assessment may include extensive observation of the student and an in-depth analysis of the student’s environment and behavioral history. The goal is to determine what triggers the maladaptive behavior, what enables the behavior, and to learn how to best redirect, adapt, or change the behavior using positive intervention strategies. Prior to an FBA, the LEA must obtain consent from the ERH. *20 USC 1414(a); EC 56506.*

Basic Concepts

Who Conducts the FBA? Functional behavioral assessments should be conducted by trained and knowledgeable staff. *EC 56320(b), 56525.*

What Is a Behavioral Intervention Plan (BIP)? A behavioral intervention plan (BIP) is a plan that may be developed when the behavior of a student with a disability impedes their learning, or the learning of others, and the student’s IEP team then considers the use of positive behavioral supports and other strategies consistent with 20 USC 1414(d) to address the student’s behavior. *EC 56520 et seq.*

What Interventions Are Appropriate?

Interventions are to be positive in nature. Behavioral interventions do not include procedures that cause pain or trauma, and respect the student’s human dignity and personal privacy. Such interventions shall ensure the student’s physical freedom, social interaction, and individual choice. *EC 56520.*

FBA and BIP Procedures

When Must the LEA Conduct an FBA and

Develop a BIP? The LEA must conduct an FBA

and develop a BIP when one of the following occurs:

- The child evidences a suspected disability in the area of behavior.
- The IEP team determines a behavior that violates a code of student conduct (i.e., school rule) is a manifestation of the student’s disability pursuant to *20 USC 1415(k)(1)(E) & (F).*
- A student is removed from their current placement as a result of (a) weapon possession; (b) illegal drug possession/use; or (c) infliction of serious bodily injury, regardless of whether the behavior was a manifestation of the student’s disability, so that the behavior does not recur. *20 USC 1415(k)(1)(D)(ii); 34 CFR 300.530.*
- The student is removed from their placement for more than 10 consecutive school days (i.e., suspension or expulsion), whether or not the behavior is determined to be related to their disability. *20 USC 1415(k)(1)(D)(iii).*

If the IEP team determines a behavior that violates a code of student conduct is a manifestation of the child’s disability and that the child already has a BIP, the IEP team must review the BIP and modify it, as necessary, to address the behavior. *20 USC 1415(k)(1)(F).*

What Happens if There Is a Behavioral

Emergency? Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs or others that cannot be immediately prevented by a less restrictive response. The intervention shall not be used as a substitute for the systemic BIP that is designed to address the target behavior. *EC 56521.1.*

Emergency interventions may not include (1) locked seclusion (unless it is in a facility otherwise licensed or permitted by state law to use a locked room); (2) employment of a device, material, or object that simultaneously immobilizes all four extremities (except that prone containment may be used as an emergency intervention by staff trained in such procedures); or (3) force that exceeds that which is necessary under the circumstances. *EC 56521.1.*

Whenever an emergency intervention is used, the LEA must (1) notify the parent (and residential care provider or foster parent, if appropriate) within one day; (2) immediately forward a Behavioral Emergency Report to the student’s file and designated administrator;



(3) schedule an IEP meeting within two days for any student without a current BIP to determine the necessity for an FBA and an interim BIP; and (4) schedule an IEP meeting to consider BIP modification, if the student already has a BIP and the incident involves a previously unseen behavior or the previously designed plan is ineffective. *EC 56521.1.*

PROCEDURAL RIGHTS / DISAGREEMENTS WITH SCHOOLS

Alternative Dispute Resolution (ADR) is an informal method of settling disagreements that may arise during an IEP meeting or as a result of the special education process. ADR provides specific options to support engagement and communication, promote understanding, and reach agreements that support the student and strengthen relationships. ADR is designed to meet the interests of the parties involved that results in a mutually agreeable outcome, rather than a decision made solely by a third party, hearing officer, or judge.

Compliance Complaint

A parent/ERH may file a compliance complaint with the CDE when the parent/ERH feels that the LEA has violated its duty under a student’s IEP or special education laws. Anyone may file a compliance complaint (the individual does not have to hold educational rights for the child).

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Due Process

A parent/ERH may file for a due process hearing if they are in disagreement with the LEA regarding:

- The student's eligibility for special education services;
- Services and supports offered or not offered in the child's IEP;
- Implementation of the child's IEP;
- Assessment results for the student;
- Educational placement of the student; or
- Changes made to the child's IEP without the parent/ERH's approval.

The parent/ERH may file a written request for Due Process with the Office of Administrative Hearings (OAH), Special Education Unit. A copy of the request is served on the LEA. After a request is filed, the LEA has 10 days to provide a written response. *EC 56502*.

Stay Put Provision

If the parent/ERH files for a due process hearing, the student must generally remain in their current placement with services listed in the last agreed upon IEP until the disagreement is resolved. This is known as "stay put." *20 USC 1415(j)*; *34 CFR 300.518*; *EC 56505(d)*.

Resolution Session

Within 15 days of the request for due process, the LEA must offer a resolution session between the parent/ERH and an LEA representative who has authority to bind the LEA to a resolution unless both parties agree to waive the resolution session. The LEA cannot bring an attorney to the resolution session unless the parent/ERH brings an attorney. If the session leads to resolution, the parties sign a binding agreement that can be voided within three days of signing. If the parties do not reach a resolution, the next step may be mediation. *EC 56501.5*.

Mediation

After filing for due process, the parent/ERH has the option to mediate the dispute with the LEA. During this mediation process, the student is generally entitled to remain in their current school placement. An attorney may represent any of the parties at the mediation. Mediation is voluntary. If the parent/ERH proceeds to a mediation with the LEA, OAH will provide a neutral mediator. All discussions are confidential. If no agreement is reached, the parties proceed to hearing. *20 USC 1415(e)*; *34 CFR 300.506*; *EC 56501(b)(1)-(2)*, *56503*.

Due Process Hearing

At least five days prior to the hearing, the parent/ERH and the LEA must provide OAH and each other with copies of the following:

- All documents expected to be introduced at the hearing; and
- A list of all witnesses and their general area of testimony that the parties intend to present at hearing. *EC 56505(e)*.

The due process hearing should be conducted at a time and place reasonably convenient to the parent/ERH and the student. *EC 56505(b)*. An impartial hearing officer from OAH should conduct the hearing. *20 USC 1415(f)(3)*; *34 CFR 300.511(c)*; *EC 56501(b)(4)*; *EC 56505(c)*.

At the hearing, both parties have the right to make oral arguments; present evidence and confront, cross-examine, and compel the attendance of witnesses; have a written or electronic verbatim record of the hearing; and receive a written or electronic decision from the hearing officer. *EC 56505(e)*.

Examples of Due Process Remedies

- *Compensatory education*: an equitable remedy to make up for education lost due to the LEA's violation of FAPE.
- *Tuition reimbursement*: parents/ERHs who remove their children to private school may be entitled to reimbursement if they prevail at a due process hearing.
- Further evaluations or independent educational evaluations (IEEs).
- Additional services or an increase in existing services.
- Changes in placement.
- Attorneys' fees. *20 USC 1415(i)(3)*.



OTHER RELEVANT LAWS AND POLICIES

Student Study Team (SST): An SST is a function of general education, not special education, and is governed by LEA policy rather than federal or state law. Schools cannot require parents to have an SST prior to an IEP or referral for special education assessment. Students struggling in school may be referred to an SST. An SST can be the first step towards determining whether a student needs special education services but cannot be required. Once an assessment request is made, the LEA must respond in writing within 15 calendar days. *EC 56321*.

Section 504 of the Rehabilitation Act of 1973 provides services to students who have a physical or mental impairment that substantially limits a major life activity, including learning. *34 CFR 104.3(j)*. Examples of disabilities that may require accommodations and supports in the general education program are asthma, diabetes, ADD, ADHD, and mental health disorders such as anxiety, depression, or PTSD. If the student qualifies, the LEA must prepare a plan that outlines special services, accommodations, and modifications that will be implemented to assist the student. Students who qualify under IDEA generally qualify for protections under 504, but there are some students who *only* qualify for 504.

SIMILARITIES AND DIFFERENCES BETWEEN 504 AND IDEA

Generally, Section 504 covers a broader group of students than IDEA. Both a 504 plan and an IEP under IDEA require LEAs to provide students with disabilities with FAPE, however there are fewer procedural safeguards under Section 504 plans. While an IEP under IDEA is governed by an extensive body of state and federal laws and regulations, each LEA will have its own Section 504 policy.

It is common for LEAs to use practices similar to those for IEPs when considering and developing 504 plans, including obtaining consent from the parent/ERH prior to assessment, provision of supports, or adjustments to placement. 504 plans are developed for the environment in which they are implemented, and as such should be reviewed and updated annually with each new team providing support to the student.

Students with 504 plans are entitled to many protections related to discipline, similar to students with IEPs.

School Discipline



California Foster Youth Education Task Force

Ninth Edition, January 2023

INTRODUCTION

Suspensions and expulsions are two types of school discipline. Both are governed by *EC 48900-48927*. A suspension is a short-term removal from school. *EC 48925(d)*. An expulsion is a longer-term removal from an entire school district. *EC 48925(b)*.

In order to lawfully suspend or expel a student, the student's school district must prove that the student committed an act that is both prohibited by the education code and related to school activities or school attendance. *EC 48900(s)*.

School Attendance Review Boards

EC 48320 enhances the enforcement of compulsory education laws and diverts students with school attendance or behavior problems from the juvenile justice system until all available resources have been exhausted. *EC 48321* provides several organizational structures for School Attendance Review Boards (SARBs) at the local and county level to create a safety net for students with persistent attendance or behavior problems. Although the goal of SARBs is to keep students in school and provide them with a meaningful educational experience, SARBs do have the power, when necessary, to refer students and their parents or guardians to court. See <http://www.cde.ca.gov/ls/ai/sb/>

Prohibited Acts

The descriptions of prohibited acts appear in *EC 48900*, *48900.2-48900.4*, and *48900.7*. For example, prohibited acts include but are not limited to possession of a weapon, possession of drugs or alcohol, and fighting. Students can be suspended or expelled for many acts, but they should *not* be suspended or expelled for being truant, tardy, or absent from school activities. *EC 48900(w)*.

Connection to School

The act must be related to school activities or school attendance in any school district. "Related" includes but is not limited to acts committed on school grounds, while going to or coming from school, during the lunch period (on or off campus), and during or while going to or coming from a school-sponsored activity. *EC 48900(s)*.



ALTERNATIVES TO DISCIPLINE

While school districts have long had discretion to use alternatives to suspension and expulsion, the California legislature, through AB 1729 (2012), recognized the considerable damage done by the overuse of suspension and expulsion, including lower academic achievement, lower graduation rates, worse overall school climates, and disproportionate impact on certain vulnerable student populations; emphasized the need for effective interventions for problematic student behavior; and clarified the wide scope of discretion school officials have to use school discipline practices other than suspension and expulsion.

Alternatives to suspension and expulsion should be age-appropriate and "designed to address and correct the student's specific misbehavior." *EC 48900(v)*. Other means of correcting inappropriate student behavior can include meetings, case management, counseling, assessments, positive behavior supports, community service, and a variety of programs, such as those that address pro-social behavior, anger management, or restorative justice. See *EC 48900.5(b)* for a full list of recognized alternatives to traditional school discipline.

For most offenses, alternatives are required to have been tried *and* found not to have corrected a student's misbehavior *before* the student can be suspended. *EC 48900.5(a)*.

SUSPENSIONS

Suspension Procedures

A suspension must be preceded by an informal conference unless an "emergency situation" exists. At the conference, the student must be informed of the reason for the disciplinary action and the evidence against them, and be given a chance to present their version and evidence in their defense. *EC 48911(b)-(c)*. An "emergency situation" means a school

administrator has determined that there is "a clear and present danger to the life, safety, or health of students or school personnel." In this situation, the student may be suspended without a pre-suspension conference but must be notified of the right to return to school for a conference to be held within two school days. If the student is unable to attend a conference within two school days, the conference must be held as soon as the student is able to return. *EC 48911(c)*.

At the time of a suspension, the school must make a reasonable effort to contact the student's educational rights holder (ERH) by phone, email, or in person. For foster children, the school must also try to contact the student's attorney and county social worker, and the tribal social worker for an Indian child. *EC 48911(d)*.

In addition, the ERH, attorney, county social worker and tribal social worker must be given written notice of the suspension (*EC 48911(d)*) and may request a meeting with school officials to discuss the cause and duration of the suspension, the applicable school policies, and other pertinent matters. *EC 48914*.

Although a school can request that an ERH, attorney, county social worker and tribal social worker attend a conference to discuss the student's behavior, the school is prohibited from penalizing the student (including by delaying reinstatement in school) for an adult's failure to attend the conference. *EC 48911(f)*.

Limits on Suspensions

Schools generally are required to try other means of correcting a student's behavior before imposing a suspension. Effective July 1, 2020, students in grades K-8 may not be issued an out-of-school suspension for "disruption" and/or "defiance." Furthermore, no student in grades K-12 may be expelled on the basis of "defiance" or "disruption." *SB 419 (2019); EC 48900(k)*.

Since January 2013, it is no longer lawful for a student to be suspended for a first offense on the grounds that the student's presence at school "causes a danger to property or threatens to disrupt the instructional process." *AB 1729 (2012)*. However, a student can be suspended for a first offense if a school administrator determines that the student's presence at school "causes danger to persons." *EC 48900.5(a)*.

School Discipline (continued)

A student can also be suspended for a first offense for certain prohibited acts, such as:

- Caused or threatened physical injury to another person, or willfully used force or violence upon another person except in self-defense;
- Possessed, sold, or otherwise furnished a firearm, knife, explosive or other dangerous object;
- Unlawfully possessed, used, sold, or otherwise furnished or been under the influence of a controlled substance;
- Unlawfully offered, arranged, or negotiated to sell a controlled substance; or
- Committed or attempted to commit robbery or extortion.

EC 48900.5(a), 48900(a)-(e).

If a suspension is imposed, it should not, with few exceptions, exceed 5 consecutive school days or 20 days per school year. *EC 48911(a), 48903.*

Exceptions

A student may be suspended up to 30 total days in a school year if they are enrolled in or transfer to another school for disciplinary reasons. *EC 48903.*

A student who has been recommended for expulsion may be suspended through the time the school board makes its decision on the expulsion. Prior to extending the suspension, the school must hold a meeting to which the student and their ERH have been invited and must determine that the student's presence at school or in an alternative school placement "would cause a danger to persons or property or a threat of disrupting the instructional process." If the youth is a foster student, the school district also must invite the child's attorney and county social worker to this meeting, as well as the tribal social worker for an Indian child. Any decision to extend a suspension in this way must be in writing. *EC 48911(g).*

School Work Missed During Suspension

A student may be required to complete assignments and tests missed during the suspension. *EC 48913.* School work should be requested from the school for the student to complete while out of school on suspension.

Effective January 1, 2020, upon the request of the student, parent/guardian or ERH, a teacher must provide any student in grades 1-12, who has been suspended from school for two or more school days, the homework that they

would otherwise have been assigned.

If a homework assignment that is requested and turned in to the teacher by the due date or when the student returns from suspension, whichever is later, is not graded before the end of the academic term, that assignment cannot be included in the student's overall grade in the class. *AB 982 (2019); EC 47606.2, EC 48913.5.*



Supervised Suspension Classroom

Some suspensions may be served in a supervised suspension classroom rather than off school grounds. The classroom or school must promote completion of schoolwork and tests the student misses during the suspension and make appropriate counseling services available. The school must notify the student's ERH, attorney, and county social worker, and if applicable, tribal social worker, at the time it assigns the student to the suspension classroom. The notice must be in writing if the student will be in the suspension classroom for longer than one class period. *EC 48911.1.* In most cases, supervised suspension, like out-of-school suspension, should be used only when other means of correction fail to bring about proper conduct. *EC 48900.5(a).*

EXPULSIONS

Discretion Not to Expel

For most acts that violate the education code, school officials have discretion to not recommend expulsion, and the governing board has discretion to not expel. They can decide that expulsion would be inappropriate under the circumstances. *EC 48915(a)-(b), (e).* School officials should determine whether they are recommending expulsion "as quickly as possible" so that a student does not lose instructional time. *EC 48915(a)(2).*

Mandatory Recommended Expulsions

The law requires recommendation for expulsion for a small category of acts. Those acts are firearm offenses (but not possession of an imitation firearm), brandishing a knife at

another person, selling controlled substances, committing or attempting to commit sexual assault or battery, and possessing an explosive. *EC 48915(c).*

Expulsion Procedures

A student who is recommended for expulsion has due process rights. They include:

- The right to a hearing held within 30 school days of the date a school official determined the student committed the act, unless the student makes a written request to postpone the hearing. The student has a right to at least one 30-day postponement and can ask for more. *EC 48918(a).*
- The right to receive written notice of the hearing, to be sent by the school district at least 10 calendar days before the hearing. The notice must include the date and place of the hearing, a statement of the specific facts and charges that are the basis for the expulsion recommendation, a copy of the district's disciplinary rules, and a list of the student's and ERH's rights. *EC 48918(b).* If the student is a foster student, the school district also must provide the hearing notice to the student's attorney and county social worker, and if applicable, tribal social worker, at least 10 calendar days before the date of the hearing. *EC 48918.1(a), (c).*
- The right to bring a lawyer or other advocate to the hearing. *EC 48918(b)(5).*
- The right to receive copies of the documents that will be used at the hearing, to question all witnesses and evidence at the hearing, and to bring their own witnesses and evidence to the hearing. *EC 48918(b)(5).*
- The right to ask the governing board to subpoena witnesses. *EC 48918(i).*
- The right to receive the governing board's written decision on the expulsion recommendation within 10 school days of the hearing or, in some situations, within 40 school days of the beginning of the suspension for the incident in question. *EC 48918(a).*
- If expelled, (1) the right to receive notice of the right to appeal, and (2) the right to be educated while expelled. *EC 48918(j), 48916.1.*

In addition, for mandatory recommended expulsions involving foster students, the school district must provide written notice of the hearing to the student's ERH, attorney, and county social worker and, if applicable, tribal social worker at least 10 calendar days before

School Discipline (continued)

the date of the hearing. The notice may be provided by email or by phone. *EC 48918.1.*

Necessary Findings

Generally, in order to expel a student, a governing board must do the following things:

- Ensure that the student's due process rights, including timelines and procedures, were not violated.
- Find that the student committed a prohibited act that was related to school activities or school attendance.
- Except in the case of mandatory recommended expulsions, find one or both of the following:
 - Other means of correction are not feasible or repeatedly have failed to bring about proper conduct.
 - Due to the nature of the act, the student's presence causes a continuing danger to the physical safety of the student or others. *EC 48915(b), (e).*

Appeals

If a governing board orders expulsion, the student has up to 30 days from the date of the expulsion decision to appeal to the county board of education. *EC 48919.* There are limited grounds for appeal (e.g., whether the hearing was fair, whether relevant evidence could not be produced or was excluded improperly) and many rules that must be followed in the appeals process. *EC 48919-23.* There are no other administrative appeals above the county board of education level. *EC 48924.* Any further appeal must be pursued in court.

Education During Expulsion

The school district must ensure that an educational program is provided to an expelled student for the entire period of the expulsion. *EC 48916.1, 48915(f).* The written expulsion decision must specify the alternative educational placement. *EC 48918(j)(2).*

Rehabilitation Plan

At the time of expulsion, the governing board also must recommend a rehabilitation plan, which will be considered when the student applies for readmission to the district. The plan may include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, and other rehabilitative programs. *EC 48916(b).* For expulsions related to controlled substances or alcohol, the school board may require, with

parent/ERH consent, enrollment in a drug rehabilitation program. *EC 48916.5.*

Readmission After Expulsion

An expulsion order remains in effect until the school district orders readmission. The date when a student must be considered for readmission to the district must be set by the governing board at the time of the expulsion decision. The date must be *no later than*:

- For mandatory expulsions, one year from the date of the expulsion.
- For non-mandatory expulsions, the last day of the semester following the semester in which the expulsion occurred.
- For non-mandatory expulsions during summer sessions or intersessions of year-round programs, the last day of the semester following the summer session or intersession in which the expulsion occurred.

The governing board may set a date earlier than these maximum time periods. *EC 48916(a).*

A student should follow the district's rules and procedures for requesting readmission, which should be provided at the time of the expulsion decision. After the process is completed, the governing board must readmit the student unless it finds that the student either failed to complete the rehabilitation plan or "continues to pose a danger to campus safety or to other pupils or employees of the school district." *EC 48916(c).*

If readmission is denied, the governing board must provide written notice of the reason(s) for the denial and offer the student an educational program. *EC 48916(d)-(e).*

Enrollment in Another District

A student may apply for enrollment in another school district during the period of expulsion. An expelled student must disclose the ongoing expulsion at the time of enrollment. Certain procedures must be followed, including a hearing to determine whether the student poses a danger to students or staff of the new district. Enrollment is not guaranteed, and any enrollment that is permitted may be limited to certain types

of educational programs or dependent on specified conditions. *EC 48915.1-.2.*

Suspended Expulsions

A governing board can decide to expel a student but suspend enforcement of the expulsion order. A "suspended expulsion" is an actual expulsion that puts a student on probationary status and allows them to enroll in an educational program deemed appropriate by the school board to rehabilitate the student. *EC 48917(a), (c).* If the student violates any behavioral rules during the probationary period, the school board can revoke the suspension and expel the student under the terms of the original expulsion order. *EC 48917(d).*

If the student satisfactorily completes the rehabilitation program, they must be reinstated in a district school, and the governing board may order the expulsion records to be expunged. *EC 48917(e).*

A governing board's decision to suspend enforcement of an expulsion order does not affect the timeline for appealing the expulsion to the county board of education. If a student wishes to appeal the expulsion, they must do so within 30 days of the expulsion decision regardless of whether the expulsion order is suspended; otherwise, they lose the right to appeal. *EC 48917(f).*

STUDENT INTERROGATIONS BY LAW ENFORCEMENT

All youth under the age of 18 must consult with an attorney in person, by telephone, or by video conference prior to a custodial interrogation or waiver of Miranda Rights. The consultation may not be waived. *WIC 625.6(a).* This applies to custodial interrogations on campus by law enforcement officers (including school resource officers) as well as interrogations off campus. Law enforcement agencies are required to ensure that youth consult with an attorney in private. During this confidential consultation, the attorney will explain the youth's rights to them. The attorney consultation requirement does not apply to probation officers in the normal performance of their duties. *WIC 625.6(d).*

INVOLUNTARY TRANSFERS

In some situations, a student may be transferred against the wishes of their ERH to the school district's continuation school or community day school for reasons that may or may not be related to school discipline. Specific procedures for and rights related to involuntary transfers must appear in the school district's written policies. *EC 48432.5, 48662.*



School Discipline (continued)

Involuntary Transfer to Continuation Schools

A school district may transfer a student who is at least 16 years old to its continuation school for certain prohibited acts or for habitual truancy or attendance problems. Prior to the transfer, the student and their ERH, attorney, and county social worker, or if the student is an Indian child, their tribal social worker, are entitled to written notice and a hearing to discuss the reason(s) for the proposed transfer and to present and question relevant evidence and witnesses. None of the people involved in the final involuntary transfer decision shall be staff of the school where the student is enrolled. A student should not be transferred involuntarily unless other means have been tried and have failed to improve the student's conduct or unless the student committed a prohibited act and their "presence causes a danger to persons or property or threatens to disrupt the instructional process." A final transfer decision must be in writing and may be subject to periodic review. A transfer generally should not extend past the semester following the semester in which the act(s) leading directly to the transfer occurred. *EC 48400; 48432.5.*

Voluntary Transfers to Continuation Schools

Different laws, policies, and procedures apply to voluntary, as opposed to involuntary, transfers to continuation schools, including the requirement that the decision to voluntarily transfer a student must be in their best educational interest as determined by their ERH and that voluntary transfers not be used as an alternative to expulsion unless alternative means of correction have been attempted pursuant to *EC 48900.5* and *48432.3.*

Transfer to Community Day Schools

A school district may transfer a student to its community day school if the student has been expelled, has been referred by probation under the California Welfare & Institutions Code, or has been referred to the community day school by a school attendance review board or other district-level referral process. *EC 48662.*

SCHOOL DISCIPLINE NOTICES FOR FOSTER CHILDREN

A foster child's ERH, attorney, and county social worker, and an Indian child's tribal social worker, have the same rights as a parent has to receive school discipline notices, documents and related information. *EC 48853.5(d).* This includes notice of:

- All suspensions, including in-school suspensions. *EC 48911(d), 48911.1(d).*
- Any meeting to determine whether a suspension will be extended until a decision is made on an expulsion recommendation. *EC 48911(g).*
- Any expulsion hearing. *EC 48918.1.* Notice should be provided at least 10 calendar days before the date of the hearing.
- Any meeting of an Individualized Education Program (IEP) team to make a manifestation determination decision. *EC 48915.5(d).*
- Any involuntary transfers. Notice should provide opportunity to request a meeting with the designee of the district superintendent before the transfer. *EC 48432.5(b).*
- Any plans to involuntarily remove a foster child from a charter school. Written notice must be provided no less than 5 school days before the effective action. *EC 47605(c)(5)(I)(iii), 47605.6(b)(5)(I)(iii).*

To facilitate communication between school districts and foster children's attorneys, the attorneys (or their law firm or organization) must provide their contact information at least once a year to the educational liaisons of each local educational agency (LEA) serving their clients in the county of court jurisdiction.

In addition, a foster child's caregiver or ERH may provide the attorney's contact information to the LEA. *WIC 317(e)(4).*

DISCIPLINE RECORDS

A student's ERH has a right to add to the student's school record a written statement or response to any disciplinary action that appears in the student's file. *EC 49072.*

Amending a Student's Record After Improper School Suspension

If a student is improperly suspended from school (e.g., based on failure to provide notice or failure to hold a conference), the student's ERH can request to amend their school records. *EC 49070.*

STUDENTS WITH DISABILITIES

Protections in the Individuals with Disabilities Education Act (IDEA) apply to students who have been found eligible for special education services and to students for whom the school is deemed to have knowledge that the child might have a disability (i.e., students who have not yet been found eligible, but the school had knowledge of a disability, including students who have been referred for initial evaluation). *34 CFR 300.534.* If a request for a special education evaluation is

made before the disciplinary period, the assessment must be completed, an Individualized Education Program (IEP) meeting held, and a manifestation determination IEP held before further discipline can be instituted. If a request for a special education evaluation is made during the disciplinary period, it must be conducted in an expedited manner. *20 USC 1415(k)(5)(D)(ii); 34 CFR 300.534(d)(2).* Students who do not fall into these categories may be disciplined as students without disabilities. *20 USC 1415(k)(5)(D); 34 CFR 300.534(d).*

NOTICE OF DISCIPLINARY ACTION

A student's ERH is entitled to be notified of an LEA's decision to take disciplinary action and of their procedural rights on the same day the decision is made. *20 USC 1415(k)(1)(H); 34 CFR 300.530(h).*



10-DAY THRESHOLD

A student with a disability who violates a code of student conduct may be removed from their current educational placement to an appropriate "interim alternative educational setting," other setting, or may be suspended for up to 10 school days, so long as similar disciplinary measures are taken against students without disabilities. *20 USC 1415(k)(1)(B); 34 CFR 300.530(b).*

School personnel can consider any unique circumstances on a case-by-case basis when determining whether to change the placement of a student with a disability who violates a code of student conduct. *20 USC 1415(k)(1)(A); 34 CFR 300.530(a).*

A "change of placement" of more than 10 school days could result from an extended suspension of more than 10 consecutive school days, pending an expulsion hearing; a pattern of suspensions or removals of more than 10 school days in a school year, based on similar behavior; or placement in an "interim alternative educational setting" (see below); or an expulsion. *See 34 CFR 300.536.*

School Discipline (continued)

If an LEA wants to change the placement of a student with a disability for more than 10 school days because of a violation of a code of student conduct, it must convene an IEP meeting to make a “manifestation determination.” The meeting must be held within 10 school days of the LEA’s decision to seek the change in placement. *20 USC 1415(k)(1)(E); 34 CFR 300.530(e)*. If the youth is a foster student (as defined in *EC 48853.5*), the LEA must invite the student’s ERH, attorney and county social worker to participate in the meeting. *EC 48915.5(d)*. The LEA also must invite the tribal social worker if the foster student is an Indian child. *EC 48915.5(f)*.

After a student with a disability has been removed from their placement for more than 10 school days in the same school year, they are entitled to a free appropriate public education (FAPE) during any subsequent days of removal. *34 CFR 300.530(b)(2)*.

INTERIM ALTERNATIVE EDUCATIONAL SETTING (IAES)

A school may move a student with a disability to an IAES for no more than 45 school days, regardless of whether the conduct was a manifestation of the student’s disability, if the student, in connection with a school activity, has a weapon; knowingly has, uses, sells, or solicits the sale of a controlled substance; or inflicts serious bodily injury upon another person. Serious bodily injury has been interpreted in case law to require a very serious injury including maiming. Injuries that do not require hospitalization are often found to not meet this standard. *20 USC 1415(k)(1)(G); 34 CFR 300.530(g); see 20 USC 1415(k)(7) (defining these violations); 34 CFR 300.530(i)*.



MANIFESTATION DETERMINATION

At the manifestation determination meeting, the IEP team must consider all relevant information to determine whether the conduct in question (1) was caused by, or had a direct and substantial relationship to, the student’s disability or (2) was the direct result of the LEA’s failure to implement the student’s IEP. If the answer to either item is “yes,” the conduct is considered to be a manifestation of the student’s disability. *20 USC 1415(k)(1)(E); 34 CFR 300.530(e)*.

Finding of Manifestation

If the IEP team finds that the student’s behavior was a manifestation of their disability:

- A functional behavioral assessment (FBA) must be conducted, if one has not already been done. (See the Special Education Fact Sheet.)
- A behavioral intervention plan (BIP) must be developed and implemented or, if one already exists, reviewed and modified to address the behavior.
- The student must be returned to the placement from which they were removed, unless the IEP team (including the ERH) agrees to a change of placement as part of the BIP or the student was moved to an “interim alternative educational setting.” *20 USC 1415(k)(1)(F)-(G); 34 CFR 300.530(f)-(g)*.

If the IEP team finds that the student’s conduct was the direct result of the LEA’s failure to implement the IEP, the LEA must take immediate steps to remedy the deficiencies. *34 CFR 300.530(e)(3)*.

Finding of No Manifestation

If the IEP team finds that the student’s behavior was not a manifestation of their disability:

- The school may discipline the student in the same manner and for the same duration as it would a student without disabilities.
- The student must continue to receive Free Appropriate Public Education (FAPE), enabling the student to participate in the general education curriculum and progress toward their IEP goals.

- The student must receive, as appropriate, a Functional Behavioral Assessment (FBA) and Behavior Intervention Services (BIS) and modifications that are designed to address the behavior violation so that it does not recur. *20 USC 1415(k)(1)(C)-(D); 34 CFR 300.530(c)-(d)*.

IEP Team Disagreements

Any disagreement related to the manifestation determination or placement may be resolved through an expedited due process hearing, which must be held within 20 school days of a request. The hearing officer can return the student to the placement from which they were removed or temporarily place the student in an appropriate “interim alternative educational setting” (IAES). Pending the hearing decision, a student who was placed in an IAES must remain in that setting unless the placement expires (no more than 45 school days) or the IEP team agrees otherwise. *20 USC 1415(k)(3)-(4); 34 CFR 300.532-300.533*. The setting must be determined by the IEP team. *20 USC 1415(k)(2); 34 CFR 300.531*.

Students in these settings have the same rights to FAPE, an FBA, and BIS as students for whom no manifestation was found. *20 USC 1415(k)(1)(D); 34 CFR 300.530(d)*.



REFERRAL TO LAW ENFORCEMENT

An LEA that reports a crime committed by a student with a disability must ensure that copies of the student’s special education records are transmitted to the law enforcement authorities to whom the crime is reported. *20 USC 1415(k)(6)(B); 34 CFR 300.535(b)*.

Foster Youth Graduation Exemption Requirements



California Foster Youth Education Task Force

Ninth Edition, January 2023

INTRODUCTION

The key to improving outcomes for youth in foster care and former juvenile court school pupils is identifying the specific roadblocks to their educational success and working to remove them.

California sets minimum high school graduation requirements. However, school districts may require students to complete additional coursework above minimum state requirements to graduate from high school. Foster youth who transfer high schools may be required to complete different and/or additional local graduation requirements in their new school district. Often, they cannot complete these requirements within four years of high school. Assembly Bills 167 (2009) and 216 (2013), codified in *EC 51225.1* and amended by Senate Bill 532 (2022) effective January 1, 2023, exempt students in foster care from local graduation requirements under certain conditions.



EXEMPTION FROM LOCAL GRADUATION REQUIREMENTS

Notwithstanding any other law, a school district or charter school shall exempt a student in foster care—including a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law, or a child who is the subject of a voluntary placement agreement—or a former juvenile court school pupil who transfers between schools at any time after the completion of the student's second year of high school from all coursework and other requirements adopted by the governing board of the school district that are in addition to the statewide course requirements specified in *EC 51225.3*, unless the school district makes a finding that the student is reasonably able to complete the school district's graduation

requirements in time to graduate from high school by the end of the student's fourth year of high school. *EC 51225.1, 48853.5(a)*.

A student must satisfy each of the following eligibility requirements to graduate under the exemption:

1. The youth must be a student in foster care or a former juvenile court school pupil, as defined in *EC 51225.2*.
2. The youth must have transferred schools after their second year of high school.

To determine whether a youth is in the third or fourth year of high school, the school district may use either the number of credits earned to the date of transfer; the total length of enrollment in high school; or, for youth with significant gaps in school attendance, the youth's age as compared to the average age of students in the third or fourth year of high school, whichever will make the youth eligible for the exemption. *EC 51225.1(c)*.

Note: Schools, youth, educational rights holders (ERHs), social workers, and probation officers cannot request or require a school transfer for the sole purpose of making a youth eligible for AB 167/216 exemption from graduation requirements. *EC 51225.1(k)-(l)*.

3. The youth must complete all California graduation requirements.

California requires students to complete all of the following one-year courses, unless otherwise specified, in order to receive a diploma of graduation from high school:

- Three courses in English.
- Two courses in Mathematics, including one year of Algebra I or Mathematics I unless previously completed. *EC 51224.5*.
- Two courses in Science, including Biological and Physical Sciences.
- Three courses in Social Studies, including United States History; World History; a one-semester course in American Government and Civics; and a one-semester course in Economics.
- One course in Visual/Performing Arts, Foreign Language or Career Technical Education. American Sign Language qualifies as a foreign language.
- Two courses in Physical Education, unless exempted.

EC 51225.3(a).

4. The district must find that the youth is not reasonably able to complete the additional local graduation requirements within four years of high school.

If the school district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school, then the youth must complete these additional requirements in order to graduate. *EC 51225.1*.

If the foster youth is exempted from local graduation requirements and completes the statewide coursework requirements before the end of their fourth year of high school and that student would otherwise be entitled to remain in attendance at the school, a school or school district shall not require or request that the student graduate before the end of their fourth year of high school. *EC 51225.1(e)*.

If the foster youth is exempted from local graduation requirements, the school district shall consult with the student and the ERH regarding how any of the requirements that are waived will affect the student's ability to gain admission to a postsecondary educational institution; shall provide discussion and information about other options available to the student, including but not limited to, a fifth year of high school, possible credit recovery, and transfer opportunities through the California Community Colleges; and shall provide consideration of the student's academic data and other information relevant to assist the youth's ERH in making an informed decision. *EC 51225.1(f)*.

A foster youth who is eligible for the exemption and would otherwise be entitled to remain in attendance at the school shall not be required to accept the exemption or be denied enrollment in, or the ability to complete, courses for which they are otherwise eligible, including courses necessary to attend an institution of higher education (*EC 51225.2(e)*), regardless of whether those courses are required for statewide graduation requirements. A youth's ERH determines whether utilizing the graduation exemption is in the youth's best interest.

FIFTH YEAR OF HIGH SCHOOL

If the school district determines that the student in foster care is reasonably able to complete the school district's graduation requirements

Foster Youth Graduation Exemption Requirements (continued)

(*EC 51225.1(b)*) or the statewide coursework requirements (*EC 51225.1(n)*) within the student's fifth year of high school, the school district shall do all of the following:

- Consult with the student and their ERH regarding their option to remain in school for a fifth year to complete the school district's graduation requirements or the statewide coursework requirements.
- Consult with the student and their ERH regarding how remaining in school for a fifth year to complete the school district's graduation requirements or the statewide coursework requirements will affect the student's ability to gain admission to a postsecondary educational institution.
- Consult with and provide information about transfer opportunities available through the California Community Colleges.
- Permit the student to stay in school for a fifth year to complete the school district's graduation requirements or the statewide coursework requirements upon agreement with the ERH or the student, if the student is 18 years of age or older.

REASONABLENESS

Determinations as to whether a student is reasonably able to complete a district's additional requirements should be made on an individual basis. The following are key factors that should be considered: (1) the youth's academic abilities (e.g., state testing results, grades); (2) courses completed and credits earned; (3) nature and extent of additional district requirements; (4) number of semesters remaining before the youth completes four years of high school; and (5) whether the youth can complete additional district requirements without taking courses before/after the regular school day.

In making this determination, the district and the district's foster youth liaison should consult with the youth's caregiver, the youth's ERH, the youth's social worker or probation officer, and anyone else familiar with the youth and their educational history.

Note: If a youth is not initially eligible for the graduation exemption when they first transfer, they have a right to ask for re-consideration of their eligibility at any later time. If the youth satisfies the eligibility criteria, the school district must find the youth eligible within 30 days of the exemption request, if an exemption is requested by the student or their ERH and the student qualifies for the exemption. *EC 51225.1(h)*.

NOTICE REQUIREMENTS

Within 30 calendar days of the date the student in foster care or a former juvenile court school pupil who may qualify for the exemption from local graduation requirements transfers into a school, the school district shall notify the student, the ERH, and the student's social worker and/or probation officer of the availability of the exemption and whether the student qualifies for an exemption.

Assembly Bill 1166 (2015) added that if the school district fails to provide timely notice, the student shall be eligible for the exemption from local graduation requirements once notified, even if that notification occurs after the termination of the court's jurisdiction over the student, if the student otherwise qualifies for the exemption. *EC 51225.1(d)*.

If a student is not eligible for an exemption in the year in which they transfer schools, the school district shall reevaluate eligibility and provide written notice to the student, the ERH, and the student's social worker and/or probation officer whether the student qualifies for an exemption within the first 30 calendar days of the following academic year. *EC 51225.1(o)*.

DURATION OF ELIGIBILITY

Once a youth is found eligible for an exemption from local graduation requirements, their right to graduate by completing minimum state course requirements may not be revoked, regardless of whether the youth's foster care or probation case closes or they later change schools again. *EC 51225.1(i)-(j)*.

UNIFORM COMPLAINT

If a right under this law is denied, anyone (including a youth, ERH, social worker/probation officer, caregiver, legal representative) may file a written complaint with the school district or charter school under the Uniform Complaint Procedures. *EC 51225.1(m)(1)*. When a complaint is filed, the district must investigate and provide a written response, including a proposed resolution, within 60 days. *5 CCR 4631*.

If the person who filed the complaint is not satisfied, they may file a complaint with the California Department of Education (CDE). The CDE will then have 60 days to investigate and provide a written response. *EC 51225.1(m)(2)*.

If a school district finds merit in a complaint or the State Superintendent finds merit in an

appeal, the school district shall provide a remedy to the affected student. *EC 51225.1(m)(3)*.

JUVENILE COURT SCHOOLS AND THE GRADUATION EXEMPTION

If a student completes the graduation requirements of their school district of residence while attending a juvenile court school, the student shall be issued a diploma from the school they last attended before detention, or the county superintendent may issue the diploma. *EC 48645.5(a)*.

When a student attending a juvenile court school becomes entitled to a diploma pursuant to *EC 48645.5(d)*, the county office of education shall notify the student, their ERH, and their social worker or probation officer of all of the following:

- The student's right to a diploma;
- How taking coursework and other graduation requirements adopted by the county office of education or continuing education upon release will affect the student's ability to gain admission to a postsecondary education institution;
- Information about transfer opportunities available through the California Community Colleges; and
- The student's or their ERH's option to defer or decline the issuance of a diploma for meeting state graduation requirements so that a student may take additional coursework at the juvenile court school or, once released, at a school operated by a local educational agency. *EC 48645.7*.

The county office of education must advise the student and their ERH, when deciding whether to elect to decline the issuance of a diploma for meeting state graduation requirements, to consider whether the student is highly likely to enroll in a school operated by a local educational agency or charter school, to benefit from continued instruction, and to graduate from high school. *EC 48645.7*.

Upon release from the juvenile institution, the district in which the student enrolls will assess if they meet the requirements for an exemption from local graduation requirements per *EC 51225.1*.

Transition Services to Support College and Career



California Foster Youth Education Task Force

Ninth Edition, January 2023

INTRODUCTION

As youth in foster care transition into adulthood, there are a variety of supports in place to ensure that they can complete their high school education and successfully transition to college and career.

Under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 and California's Assembly Bill 12, foster youth may remain eligible for Aid to Families with Dependent Children-Foster Care (AFDC-FC) payments and other benefits until age 21 under certain conditions. *WIC 11403.*

Youth who do not qualify for extended foster care benefits under AB 12 but are attending high school, a vocational program or a GED program full-time, and are reasonably expected to complete the program or receive a high school equivalency certificate before their 19th birthday, may retain their AFDC-FC, Kin-GAP, or CalWORKs foster care payments until they graduate or reach their 19th birthday. *WIC 11253, 11403.01, 11405.*

For more information, see <https://www.cdss.ca.gov/inforesources/foster-care/extended-foster-care-ab-12>

Enrollment in High School (Until Age 18)

Youth are subject to compulsory full-time education until age 18 unless they are exempt. *EC 48200.* Youth over age 18 may enroll for additional years in alternative education programs until a diploma is awarded.

Enrollment in Adult Education Programs

A student may be able to enroll in an adult education program, subject to the district's availability. Adult education programs offer free to low-cost classes for adults 18 and older. Students can get a high school diploma or general education diploma (GED), take career technical education classes, learn English and learn about U.S. citizenship. *EC 52500.1.*

Students with Special Needs

Youth are entitled to special education services under California law until age 22. *EC 56041.* See *Special Education Fact Sheet.* Additionally, college campuses have disabled student support programs that can offer a range of

accommodations. Information about programs for disabled students at California Community Colleges can be found at <https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/Educational-Services-and-Support/Student-Service/What-we-do/Disabled-Student-Programs-and-Services>

HIGHER EDUCATION

Campus Support Programs

There are a wide range of academic support programs for former foster youth attending college in California. Programs such as Guardian Scholars and NextUp are comprehensive programs that support former foster youth in their efforts to gain a university, community college, or vocational education. Campus support programs vary, and students may receive: financial aid, housing support, academic and personal counseling, and employment services. All community colleges have a designated Foster Youth Success Initiative Liaison. The best way to find out about a specific campus support program is to contact the program coordinator. See <https://cacollegepathways.org/search-foster-youth-programs/>

California College Promise Grant

The California College Promise Grant is funded by the State of California for California residents to waive the full amount of enrollment fees for eligible students at community colleges, including foster youth. While most students are subject to loss of the fee waiver if they do not make Satisfactory Academic Progress, foster youth are exempt from this provision. *5 CCR 58621.*

Chafee Grant (Education and Training Voucher-ETV)

Current or former foster youth who have not reached their 26th birthday and have financial needs may qualify for up to \$5,000 a year for career and technical training or college. Funds may be used to pay costs associated with being in school, including tuition and fees and non-tuition expenses such as books, housing, food, childcare, and transportation. The student must have had an open dependency/foster care case between ages 16 and 18, and the California Department of Social Services will verify eligibility status. Information is available at <https://chafee.csac.ca.gov/>

The requirements related to academic progress are more flexible for the Chafee ETV grant than other forms of financial aid. If a student fails to demonstrate Satisfactory Academic Progress (SAP), as defined by the institution where the student is enrolled, for two consecutive semesters (or equivalent enrollment), the student may continue to receive a Chafee ETV grant but must meet with an appropriate college staff member to develop a plan for improving academic progress. If a student subsequently fails to meet SAP standards for a third consecutive semester (or equivalent), the student must meet with an appropriate college staff member to update their plan. A student who fails to update their plan or who fails to meet SAP for a fourth semester (or equivalent) loses eligibility for subsequent awards but may appeal to retain eligibility. *EC 69519.*

Financial Aid

Foster Youth Services Coordinating Programs are required to coordinate efforts to ensure, to the extent possible, that foster youth are supported to complete a Free Application for Federal Student Aid (FAFSA) or California Dream Act Application (CADAA). *EC 42921(e)(3)(B).*

When filling out the FAFSA/CADAA, students currently or formerly in foster care should indicate they are/were a dependent/ward of the court or were in foster care after age 13 or were in a legal guardianship in order to qualify as an independent student. Independent students are not required to report parental income on the FAFSA/CADAA. Payments received as part of extended foster care do not need to be reported as income on the FAFSA. *US Department of Education, Dear Colleague Letter GEN-13-18, available at <https://ifap.ed.gov/dear-colleague-letters/07-03-2013-gen-13-18-subject-extended-foster-care-payments>*

While the FAFSA can be completed at any time, early application is encouraged and some aid, such as the Cal Grant, has specific deadlines (see Cal Grant section).

College financial aid offices have the ability to verify foster youth status automatically. In some circumstances, however, students may be asked to provide evidence of foster care status.

Transition Services to Support College and Career (continued)



Students who report on their FAFSA that they did not file a tax return are typically required to submit an IRS Verification of Non-Filing; however, if an individual is unable to obtain a verification of non-filing from the IRS and the institution has no reason to question the student's good-faith effort to obtain the required documentation, the institution may accept a signed statement certifying that the individual attempted to obtain the verification and was unable to obtain the required documentation.

See <https://jbay.org/resources/irs-vnf/> for additional information.

Cal Grant Eligibility

Foster youth who were in foster care at any point after age 13 qualify for extended eligibility for the Cal Grant program.

1. Instead of having to apply within one year after high school graduation, foster youth attending a 4-year university are able to apply for an entitlement Cal Grant if they meet other eligibility criteria and have not reached their 26th birthday as of July 1 of the award year. As of 2021, there are no

age restrictions or time out of high school requirements for all community college students.

2. Foster youth can receive a Cal Grant for up to 8 years. *EC 69433.6, 69435.3.*

To qualify for a Cal Grant, students attending a 4-year university must submit a FAFSA by March 2, and community college students must submit a FAFSA by September 2. *EC 69435.5.*

If students miss these deadlines, however, they should still apply for aid, as other sources such as the Pell grant and Chafee grant can be applied for later.

Foster youth who were in foster care at any point after age 13 can receive a Cal Grant access award for non-tuition costs (such as rent, food, books, transportation, etc.) of up to \$6,000. *EC 69470(b).*

For resources to support foster youth to apply for financial aid, visit <https://jbay.org/resources/financial-aid-guide/>

Priority Registration

Foster youth attending a public college or university who were in foster care after the age of 13 and are under age 26 are entitled to priority registration for classes. In order to access priority registration at community colleges, students must first complete an orientation, assessment, and educational plan. Students should contact the admissions and records office or foster youth contact to ensure access. *EC 66025.9.*

Priority Housing

Foster youth can receive priority access to on-campus housing at most public colleges and universities in California. In addition, universities that have student housing open during school breaks are required to give first priority to current and former foster youth and are required to allow foster youth to remain in housing that is available during academic breaks at no extra charge. *EC 76010; 90001.5; 92660.*

FOSTER YOUTH VERIFICATION

Current and former foster youth may be required to provide written verification of foster care status in order to qualify for certain benefits. Youth who are unable to obtain verification from their county can request verification from the Foster Care Ombudsperson's office by calling 1-877-846-1602.

TRANSITIONAL SERVICES AND SUPPORTS

State law specifies that before terminating dependency jurisdiction, the state must assist youth in foster care with applying for admission to college, a vocational training program, or other educational institution and obtaining financial aid, where appropriate. If the youth has not received this assistance along with other important documents, and is not prepared to exit the system, the court may retain jurisdiction so long as it takes the department to comply with assisting the youth. *WIC 391.*

Effective 2018, foster care social workers are required to document in the case plan of any youth aged 16 or older who will support the youth with applications for financial aid and college. *WIC 16501.1.*

INDEPENDENT LIVING SERVICES

Youth may be eligible for Independent Living Program (ILP) services through various county agencies depending on their status. These ILP services may include: life skills training, transitional housing, assistance with transportation, and scholarships. Youth who are in foster care age 16 and older are required to have a Transitional Independent Living Plan that is updated every six months. *WIC 16501.1.*

If the youth qualifies for special education services, they should have an Individualized Transition Plan starting at age 16. *20 USC 1414; EC 56341.5.* If they are transition age youth (16-25 years), they may also be eligible for services through the Department of Mental Health under the full-service partnership, funded by the Mental Health Services Act. Public Counsel has prepared a comprehensive manual, ABCs of Transition and the Independent Living Program, available at <https://www.publiccounsel.org/wp-content/uploads/2021/12/ABCs-Manual-Ninth-Edition-2021-4817-8632-3711.pdf>

In addition, California Department of Social Services (CDSS) has a website at <https://cdss.ca.gov/inforesources/foster-care/independent-living-program>

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Alliance for Children’s Rights Education Team, Jordan Carman, Elizabeth Engelken, Laurie Furstenfeld,
Diana Glick, Bernadette Medina Gholami, Karina Laigo, Michelle Lustig, Karen Martinez-Chung,
Danielle Mole Gabri, Anjanette Pelletier, Debbie Raucher, Kelsey White, Danielle Wondra

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Alliance for Children’s Rights Education Team, Patty Archer-Ward, Patricia Armani, Melanie Bridges,
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CFYETF Member Organization List

- Adelanto Elementary School District
- Alameda County Office of Education, Foster Youth Services Coordinating Program
- Alhambra Unified School District
- All Saints Church Foster Care Project
- Alliance for Children's Rights
- Allied Health
- Alvord Unified School District
- Amador County ILP – Nexus Youth & Family Services
- Antelope Valley SELPA
- Antelope Valley Union High School District
- Association of California School Administrators
- Atascadero High School
- BEST Community Collaboration (Bolstering Education & Successful Transition)
- Bonita Unified School District
- Butte County Office of Education
- Calaveras County Office of Education, Foster Youth Services Coordinating Program
- California Alliance of Caregivers
- California Alliance of Child and Family Services
- California Association of Supervisors of Child Welfare and Attendance
- California Community Colleges Chancellor's Office
- California Department of Developmental Services
- California Department of Education (CDE)
 - Student Achievement and Support Division
 - Analysis, Measurement, and Accountability Reporting Division
 - Special Education Division
- California Department of Rehabilitation
- California Department of Social Services (CDSS)
 - Children and Family Services Division
 - Research, Automation and Data Division
- California Foster Care Ombudsperson
- California Youth Connection (CYC)
- CASA of Los Angeles
- Casey Family Programs
- Catalyst Center
- Catholic Charities of Santa Clara County
- Centinela Valley Union High School District
- Chico Unified School District
- Child and Family Policy Institute of California
- Child Care Law Center
- Children Now
- Children Youth and Family Collaborative (CYFC)
- Children's Law Center of California
- Children's Legal Services of San Diego
- Choice Educational Services
- City and County of San Francisco
- Colusa County Office of Education, Prevention Services
- Contra Costa County Office of Education
- Corona-Norco Unified School District
- County of San Bernardino, Children & Family Services
- County of San Luis Obispo Department of Social Services
- County Welfare Directors Association of California (CWDA)
- CSU Sacramento, Guardian Scholars Program
- Cypress College, Guardian Scholars Program
- Del Norte County Office of Education
- Del Norte Unified School District
- Disability Rights Education & Defense Fund (DREDF)
- Divinity Prophet and Associates
- Dominguez High School
- East Bay Children's Law Offices
- Educational Results Partnership
- Elk Grove Unified School District, Foster Youth Services
- Empowerment Congress, Education Subcommittee on Achievement Gap & Foster Youth
- EPIC Advocacy and Consulting
- Fighting Back Santa Maria Valley
- First Star
- First Star Bruin Guardian Scholars Academy
- First Star Sacramento State Academy
- FKCE Saddleback College
- Foster America
- Foster Care Counts
- Foster Care Legal Network
- Foster Horizons, Inc.
- Fostering a Forever Future
- Foundation for California Community Colleges
- Fresno City College, NextUp Program
- Fresno County Superintendent of Schools – Foster Youth Services Coordinating Program
- Fresno Unified School District
- Give Something Back
- Glenn County Health and Human Services Agency
- GRACE/End Child Poverty CA
- Healing Pathways Clinic
- Healthy Minds Consulting
- Conrad N. Hilton Foundation
- Humboldt County Office of Education, Foster Youth Services Coordinating Program
- i.e. communications, LLC
- Inland Congregations United for Change (ICUC)
- International Christian Adoptions dba Institute for Children's Aid
- Irvine Valley College Guardian Scholars
- John Burton Advocates for Youth
- Judicial Council of California
- Just in Time for Foster Youth
- Juvenile Justice Commission, San Diego County
- Kern County Superintendent of Schools, Foster Youth Services Coordinating Program
- Kings County Office of Education, Foster Youth Services Coordinating Program
- Knight High School
- Lake Elsinore Unified School District
- Las Virgenes Unified School District
- Law Office of Miho Murai
- Learn4Life
- Legal Advocates for Children & Youth, a program of the Law Foundation of Silicon Valley
- Legal Services for Children
- Lodi Unified School District
- Los Angeles County Department of Children and Family Services
- Los Angeles County Office of Child Protection, Education Coordinating Council
- Los Angeles County Office of Education, Foster Youth Services Coordinating Program
- Los Angeles County Office of Education, Foster Youth Technical Assistance Program
- Los Angeles County Probation Department
- Los Angeles Unified School District
- Los Rios Community College District
- Lynwood Unified School District
- M & I Educational Consulting Network
- Madera Unified School District

- Making Futures Brighter
- Mariposa County Health and Human Services Agency
- Mariposa County Office of Education, Foster Youth Services Coordinating Program
- Mary Graham Children's Foundation
- McKinley Children's Center
- Mendocino County SELPA
- Mental Health Advocacy Services, Inc.
- Merced County Office of Education, Foster Youth Services Coordinating Program
- Modesto City Schools
- Modesto Junior College
- Monterey County Office of Education, Foster Youth Services Coordinating Program
- Monterey Peninsula Unified School District
- Moreno Valley College
- Morningside High School
- Murrieta Valley Unified School District
- MW Management
- National Center for Youth Law
- Nevada County Superintendent of Schools, Foster Youth Services
- New Alternatives – Transitional Youth Housing San Diego
- Oaks Middle School – STAR Scholars
- Orange County Department of Education, Foster Youth Services Coordinating Program
- Orange Unified School District
- Pacific Charters
- Palm Springs Unified School District
- Pivotal
- Placer County Office of Education, Foster Youth Services Coordinating Program
- Porterville Unified School District
- PreventionWORKS
- Pritzker Foster Care Initiative
- Promises2Kids
- Public Counsel
- Quartz Hill High School
- Redlands Unified School District
- Riverside Community College District
- Riverside County Office of Education, Foster Youth Services Coordinating Program
- Riverside Unified School District
- Romoland School District
- Roseville City School District
- Roseville Joint Union High School District, Homeless and Foster Youth Services Coordinating Program
- Sacramento City Unified School District, Foster Youth Services
- Sacramento County Department of Health and Human Services
- Sacramento County Office of Education, Foster Youth and Homeless Services Department
- San Benito County Office of Education, Foster Youth Services Coordinating Program
- San Bernardino City Unified School District, Specialized Programs Department
- San Bernardino County Children and Family Services
- San Bernardino County Human Services
- San Bernardino County Superintendent of Schools, Foster Youth Services Coordinating Program
- San Diego County Office of Education, Foster Youth Services Coordinating Program
- San Diego Volunteer Lawyer Program, Education Rights Project
- San Francisco CASA
- San Francisco State University School of Social Work
- San Joaquin County Office of Education
- San Jose State University College of Education
- San Jose State University School of Social Work
- San Juan Unified School District, Foster Youth Services
- San Luis Obispo County Office of Education, Foster Youth Services Coordinating Program
- San Luis Obispo County SELPA
- San Marcos Unified School District
- San Mateo County
- San Mateo County Children & Family Services
- San Mateo County SELPA
- Santa Clara County Office of Education
- Santa Cruz County Office of Education Foster Youth Services/FosterEd
- Scholarship Prep Public Schools
- School Services of California
- SELPA Administrators of California
- Seneca Family of Agencies
- Shasta County Office of Education, Foster Youth Services Coordinating Program
- Simply Friends
- Siskiyou County Office of Education
- Solano County Office of Education, Foster and Homeless Youth Services
- Solano County Office of Education, Youth Development Services
- Sonoma County Office of Education, Foster & Homeless Youth Education Services
- Sonoma County SELPA and Sonoma County Charter SELPA
- South Monterey County Joint Union High School District
- Stanford University FLI Office, Guardian Scholars Program
- Stevens Educational Consulting for Foster Youth Families
- Stockton Unified School District, Foster Youth Services
- Stuart Foundation
- Student Senate for California Community Colleges
- Sutter County Superintendent of Schools
- Sycamores
- Temecula Valley High School
- The Academy Project
- The Brightest Star, Inc.
- The Red Shoe Project, Inc.
- Tulare County Office of Education, Foster Youth Services Coordinating Program
- Twin Rivers Unified School District
- University of La Verne, Kern County Campus
- Ventura County Office of Education – Foster Youth Services Coordinating Program
- Vinson Professional Services
- West Valley College
- WestEd
- Whittier Union High School District
- Willows Unified School District
- With Lived Experience
- Woodland Community College – Foster & Kinship Care Education Program
- Yolo County Office of Education – Foster Youth Services Coordinating Program
- Youth Engagement Project (YEP)
- Youth Justice Education Clinic at Loyola Law School
- Yuba County Office of Education

GENERAL INFORMATION

Note: The term school district is used throughout this document to describe any public education agency responsible for providing your child's special education program. The term assessment is used to mean evaluation or testing. Federal and state laws are cited throughout this notice using English abbreviations, which are explained in a glossary on the last page of this notification.

What is the Notice of Procedural Safeguards?

This information provides you as parents, legal guardians, and surrogate parents of children with disabilities from three (3) years of age through age twenty-one (21) and students who have reached age eighteen (18), the age of majority, with an overview of your educational rights or procedural safeguards.

The Notice of Procedural Safeguards is required under the Individuals with Disabilities Education Act (in English, referred to as IDEA) and must be provided to you:

- ❖ The first time your child is referred for a special education assessment and annually thereafter
- ❖ The first time a due process or compliance complaint is filed
- ❖ When a decision is made to apply disciplinary action that constitutes a change in placement (suspension of more than 10 days or expulsion)
- ❖ When you ask for a copy

(20 *USC* 1415[d]; 34 *CFR* 300.504; *EC* 56301[d] [2], *EC* 56321, and 56341.1[g] [1])

What is the Individuals with Disabilities Education Act (IDEA)?

IDEA is a federal law that requires school districts to provide a "free appropriate public education" (in English, referred to as FAPE) to eligible children with disabilities. A free appropriate public education means that special education and related services are to be provided as described in an individualized education program (in English, known as IEP) and under public supervision to your child at no cost to you.

May I participate in decisions about my child's education?

You must be given opportunities to participate in any decision-making meeting regarding your child's special education program. You have the right to participate in IEP team meetings about the identification (eligibility), assessment, or educational placement of your child and other matters relating to your child's FAPE. (20 *USC* 1414[d] [1]B–[d][1][D]; 34 *CFR* 300.321; *EC* 56341[b], 56343[c])

The parent or guardian, or the local educational agency (LEA), has the right to participate in the development of the IEP and to initiate their intent to electronically audiotape the proceedings of the IEP team meetings. At least 24 hours prior to the meeting, the parent or guardian shall notify the members of the IEP team of their intent to record a meeting. If the parent or guardian does not consent to the LEA audiotape recording an IEP meeting, the meeting shall not be recorded on an audiotape recorder.

Your rights include information about the availability of FAPE, including all program options, and all available alternative programs, both public and nonpublic. (20 *USC* 1401[3], 1412[a][3]; 34 *CFR* 300.111; *EC* 56301, 56341.1[g][1], and 56506)

Where can I get more help?

When you have a concern about your child's education, it is important that you contact your child's teacher or administrator to talk about your child and any problems you see. Staff in your school district or Special Education Local Plan Area (SELPA) may answer questions about your child's education, your rights, and procedural safeguards. Also, when you have a concern, this informal conversation often solves the problem and helps to maintain open communication. Additional resources are listed at the end of this document to help you understand the procedural safeguards.

What if my child is deaf, hard of hearing, blind, visually impaired, or deaf-blind?

Programs are available to students with these special needs within the SELPA. For information, contact the special education administrator in your district. Additionally, the State Special Schools provide services to students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three facilities: the California Schools for the Deaf in Fremont and Riverside and at the California School for the Blind in Fremont. Residential and day school programs are offered to students from infancy to age 21 at both State Schools for the Deaf. Such programs are offered to students aged five through 21 at the California School for the Blind. The State Special Schools also offer assessment services and technical assistance

For more information about the State Special Schools, please visit the California Department of Education (CDE) Web site at <http://www.cde.ca.gov/sp/ss/> or ask for more information from the members of your child's IEP team.

NOTICE, CONSENT, SURROGATE PARENT APPOINTMENT, ASSESSMENT, AND ACCESS TO RECORDS

Prior Written Notice

When is a notice needed?

This notice must be given when the school district proposes or refuses to initiate a change in the identification, assessment, or educational placement of your child with special needs or the provision of a free appropriate public education. (20 *USC* 1415[b][3] and (4), 1415[c][1], 1414[b][1]; 34 *CFR* 300.503; *EC* 56329 and 56506[a])

The school district must inform you about proposed evaluations of your child in a written notice or an assessment plan within fifteen (15) days of a written request for evaluation. The notice must be understandable and in your native language or other mode of communication, unless it is clearly not feasible to do so. (34 *CFR* 300.304; *EC* 56321)

What will the notice tell me?

The Prior Written Notice must include the following:

1. A description of the actions proposed or refused by the school district
2. An explanation of why the action was proposed or refused
3. A description of each assessment procedure, record, or report the agency used as a basis for the action proposed or refused
4. A statement that parents of a child with a disability have protection under the procedural safeguards
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part
6. A description of other options that the IEP team considered and the reasons those options were rejected; and
7. A description of any other factors relevant to the action proposed or refused.

(20 *USC* 1415[b][3] and [4], 1415[c][1], 1414[b][1]; 34 *CFR* 300.503)

Parental Consent

When is my approval required for assessment?

You have the right to refer your child for special education services. You must give informed, written consent before your child's first special education assessment can proceed. The parent has at least fifteen (15) days from the receipt of the proposed assessment plan to arrive at a decision. The assessment may begin immediately upon receipt of the consent and must be completed and an IEP developed within sixty (60) days of your consent.

When is my approval required for services?

You must give informed, written consent before your school district can provide your child with special education and related services.

What are the procedures when a parent does not provide consent?

If you do not provide consent for an initial assessment or fail to respond to a request to provide the consent, the school district may pursue the initial assessment by utilizing due process procedures.

If you refuse to consent to the initiation of services, the school district must not provide special education and related services and shall not seek to provide services through due process procedures.

If you consent in writing to the special education and related services for your child but do not consent to all of the components of the IEP, those components of the program to which you have consented must be implemented without delay.

If the school district determines that the proposed special education program component to which you do not consent is necessary to provide a free appropriate public education to your child, a due process hearing must be initiated. If a due process hearing is held, the hearing decision shall be final and binding.

In the case of reevaluations, the school district must document reasonable measures to obtain your consent. If you fail to respond, the school district may proceed with the reevaluation without your consent. (20 *USC* 1414[a][1][D] and 1414[c]; 34 *CFR* 300.300; *EC* 56506[e], 56321[c] and [d], and 56346).

When may I revoke consent?

If at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency:

1. May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 *CFR* Section 300.503 before ceasing such services
2. May not use the procedures in subpart E of Part 300 34 *CFR* (including the mediation procedures under 34 *CFR* Section 300.506 or the due process procedures under 34 *CFR* Sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child
3. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services
4. Is not required to convene an IEP team meeting or develop an IEP under 34 *CFR* Sections 300.320 and 300.324 for the child for further provision of special education and related services

Please note, in accordance with 34 *CFR* Section 300.9 (c)(3), that if the parents revoke consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

Surrogate Parent Appointment**What if a parent cannot be identified or located?**

School districts must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the school district cannot discover the whereabouts of a parent.

A surrogate parent may also be appointed if the child is an unaccompanied homeless youth, an adjudicated dependent or ward of the court under the state Welfare and Institution Code, and is referred to special education or already has an IEP. (20 *USC* 1415[b][2] ; 34 *CFR* 300.519; *EC* 56050; *GC* 7579.5 and 7579.6)

Nondiscriminatory Assessment**How is my child assessed for special education services?**

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory.

Assessment materials must be provided and the test administered in your child's native language or mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

No single procedure can be the sole criterion for determining eligibility and developing FAPE for your child. (20 *USC* 1414[b][1]–[3], 1412[a][6][B]; 34 *CFR* 300.304; *EC* 56001[j] and 56320)

Independent Educational Assessments**May my child be tested independently at the district's expense?**

If you disagree with the results of the assessment conducted by the school district, you have the right to ask for and obtain an independent educational assessment for your child from a person qualified to conduct the assessment at public expense.

The parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

The school district must respond to your request for an independent educational assessment and provide you information about where to obtain an independent educational assessment.

If the school district believes that the district's assessment is appropriate and disagrees that an independent assessment is necessary, the school district must request a due process hearing to prove that its assessment was appropriate. If the district prevails, you still have the right to an independent assessment but not at public expense. The IEP team must consider independent assessments.

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom.

If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe the proposed new setting. (20 *USC* 1415[b][1] and [d][2][A]; 34 *CFR* 300.502; *EC* 56329[b] and [c])

Access to Educational Records

May I examine my child's educational records?

You have a right to inspect and review all of your child's education records without unnecessary delay, including prior to a meeting about your child's IEP or before a due process hearing. The school district must provide you access to records and copies, if requested, within five (5) **business** days after the request has been made orally or in writing. (*EC* 49060, 56043[n], 56501[b][3], and 56504)

HOW DISPUTES ARE RESOLVED

Due Process Hearing

When is a due process hearing available?

You have the right to request an impartial due process hearing regarding the identification, assessment, and educational placement of your child or the provision of FAPE. The request for a due process hearing must be filed within two years from the date you knew or should have known about the alleged action that forms the basis of the due process complaint. (20 *USC* 1415[b][6]; 34 *CFR* 300.507; *EC* 56501 and 56505[1])

Mediation and Alternative Dispute Resolution

May I request mediation or an alternative way to resolve the dispute?

A request for mediation may be made either before or after a request for a due process hearing is made.

You may ask the school district to resolve disputes through mediation or alternative dispute resolution (ADR), which is less adversarial than a due process hearing. The ADR and mediation are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing.

What is a pre-hearing mediation conference?

You may seek resolution through mediation prior to filing a request for a due process hearing. The conference is an informal proceeding conducted in a non-adversarial manner to resolve issues relating to the identification, assessment, or educational placement of a child or to a FAPE.

At the prehearing mediation conference, the parent or the school district may be accompanied and advised by non-attorney representatives and may consult with an attorney prior to or following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting a due process hearing.

All requests for a prehearing mediation conference shall be filed with the Superintendent. The party initiating a prehearing mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

The prehearing mediation conference shall be scheduled within fifteen (15) days of receipt by the Superintendent of the request for mediation and shall be completed within thirty (30) days after receipt of the request for mediation unless both parties agree to extend the time. If a resolution is reached, the parties shall execute a legally binding written agreement that sets forth the resolution. All discussions during the mediation process shall be confidential. All prehearing mediation conferences shall be scheduled in a timely manner and held at a time and place reasonably convenient to the parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a due process hearing. (*EC* 56500.3 and 56503)

Due Process Rights

What are my due process rights?

You have a right to:

1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings (20 *USC* 1415[f][1][A], 1415[f][3][A]-[D]; 34 *CFR* 300.511; *EC* 56501[b][4])
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (*EC* 56505 [e][1])
3. Present evidence, written arguments, and oral arguments (*EC* 56505[e][2])
4. Confront, cross-examine, and require witnesses to be present (*EC* 56505[e][3])
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (*EC* 56505[e][4])
6. Have your child present at the hearing (*EC* 56501[c][1])
7. Have the hearing be open or closed to the public (*EC* 56501[c][2])
8. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five (5) business days before a hearing (*EC* 56505[e][7] and 56043[v])
9. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (*EC* 56505[e][6])
10. Have an interpreter provided (CCR 3082[d])
11. Request an extension of the hearing timeline (*EC* 56505[f][3])
12. Have a mediation conference at any point during the due process hearing (*EC* 56501[b][2]), and
13. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (*EC* 56507[a]). (20 *USC* 1415[e]; 34 *CFR* 300.506, 300.508, 300.512 and 300.515)

Filing a Written Due Process Complaint

How do I request a due process hearing?

You need to file a written request for a due process hearing. You or your representative needs to submit the following information in your request:

1. Name of the child
2. Address of the residence of the child
3. Name of the school the child is attending
4. In the case of a homeless child, available contact information for the child and the name of the school the child is attending, and
5. A description of the nature of the problem, including facts relating to the problem(s) and a proposed resolution of the problem(s)

Federal and state laws require that either party filing for a due process hearing must provide a copy of the written request to the other party. (20 *USC* 1415[b][7], 1415[c][2]; 34 *CFR* 300.508; *EC* 56502[c][1])

Prior to filing for a due process hearing, the school district shall be provided the opportunity to resolve the matter by convening a resolution session, which is a meeting between the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request. (20 *USC* 1415[f][1][B]; 34 *CFR* 300.510)

What does a resolution session include?

Resolution sessions shall be convened within fifteen (15) days of receiving notice of the parents' due process hearing request. The sessions shall include a representative of the school district who has decision-making authority and not include an attorney of the school district unless the parent is accompanied by an attorney. The parent of the child may discuss the due process hearing issue and the facts that form the basis of the due process hearing request.

The resolution session is not required if the parent and the school district agree in writing to waive the meeting. If the school district has not resolved the due process hearing issue within thirty (30) days, the due process hearing may occur. If a resolution is reached, the parties shall execute a legally binding agreement. (20 *USC* 1415[f][1][B]; 34 *CFR* 300.510)

Does my child's placement change during the proceedings?

The child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school district agree on another arrangement. If you are applying for initial admission of your child to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. (20 *USC* 1415[i]; 34 *CFR* 300.518; *EC* 56505[d])

May the decision be appealed?

The hearing decision is final and binding on both parties. Either party may appeal the hearing decision by filing a civil action in state or federal court within 90 days of the final decision. (20 *USC* 1415[i][2] and [3][A], 1415[l]; 34 *CFR* 300.516; *EC* 56505[h] and [k], *EC* 56043[w])

Who pays for my attorneys' fees?

In any action or proceeding regarding the due process hearing, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you as parent of a child with a disability if you are the prevailing party in the hearing. Reasonable attorneys' fees may also be made following the conclusion of the administrative hearing, with the agreement of the parties. (20 *USC* 1415[i][3][B]–[G]; 34 *CFR* 300.517; *EC* 56507[b])

Fees may be reduced if any of the following conditions prevail:

1. The court finds that you unreasonably delayed the final resolution of the controversy
2. The attorneys' hourly fees exceed the prevailing rate in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience
3. The time spent and legal services provided were excessive, or
4. Your attorney did not provide to the school district the appropriate information in the due process request notice.

Attorneys' fees will not be reduced, however, if the court finds that the State or the school district unreasonably delayed the final resolution of the action or proceeding or that there was a violation of this section of law. (20 *USC* 1415[i][3][B]–[G]; 34 *CFR* 300.517)

Attorneys' fees relating to any meeting of the IEP team may not be awarded unless an IEP team meeting is convened as a result of a due process hearing proceeding or judicial action. Attorneys' fees may also be denied if you reject a reasonable settlement offer made by the district/public agency ten (10) days before the hearing begins and the hearing decision is not more favorable than the offer of settlement. (20 *USC* 1415[i][3][B]–[G]; 34 *CFR* 300.517)

To obtain more information or to file for mediation or a due process hearing, contact:

Office of Administrative Hearings
 Attention: Special Education Division
 2349 Gateway Oaks Drive, Suite 200
 Sacramento, CA 95833-4231
 (916) 263-0550
 FAX (916) 263-0554

SCHOOL DISCIPLINE AND PLACEMENT PROCEDURES FOR STUDENTS WITH DISABILITIES

School Discipline and Alternative Interim Educational Settings**May my child be suspended or expelled?**

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates a code of student conduct from his or her setting to:

- ❖ An appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) consecutive school days, and
- ❖ Additional removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct

What occurs after a removal of more than ten (10) days?

After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency must provide services to enable the child to continue to participate in the general education curriculum and progress toward meeting the goals set out in the child's IEP. Also, a child

will receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not recur.

If a child exceeds ten (10) days in such a placement, an IEP team meeting must be held to determine whether the child's misconduct is caused by the disability. This IEP team meeting must take place immediately, if possible, or within ten (10) days of the school district's decision to take this type of disciplinary action.

As a parent you will be invited to participate as a member of this IEP team. The school district may be required to develop an assessment plan to address the misconduct or, if your child has a behavior intervention plan, review and modify the plan as necessary.

What happens if the IEP team determines that the misconduct is not caused by the disability?

If the IEP team concludes that the misconduct was not a manifestation of the child's disability, the school district may take disciplinary action, such as expulsion, in the same manner as it would for a child without a disability. (20 *USC* 1415[k][1] and [7]; 34 *CFR* 300.530)

If you disagree with the IEP team's decision, you may request an expedited due process hearing, which must occur within twenty (20) school days of the date on which you requested the hearing. (20 *USC* 1415[k][2]; 34 *CFR* 300.531[c])

Regardless of the setting the school district must continue to provide FAPE for your child. Alternative educational settings must allow the child to continue to participate in the general curriculum and ensure continuation of services and modifications detailed in the IEP. (34 *CFR* 300.530; *EC* 48915.5[b]).

CHILDREN ATTENDING PRIVATE SCHOOL

May students who are parentally placed in private schools participate in publicly funded special education programs?

Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. The school district must consult with private schools and with parents to determine the services that will be offered to private school students. Although school districts have a clear responsibility to offer FAPE to students with disabilities, those children, when placed by their parent in private schools, do not have the right to receive some or all of the special education and related services necessary to provide FAPE. (20 *USC* 1415[a][10][A]; 34 *CFR* 300.137 and 300.138; *EC* 56173)

If a parent of an individual with exceptional needs who previously received special education and related services under the authority of the school district enrolls the child in a private elementary school or secondary school without the consent of or referral by the local educational agency, the school district is not required to provide special education if the district has made FAPE available. A court or a due process hearing officer may require the school district to reimburse the parent or guardian for the cost of special education and the private school only if the court or due process hearing officer finds that the school district had not made FAPE available to the child in a timely manner prior to that enrollment in the private elementary school or secondary school and that the private placement is appropriate. (20 *USC* 1412[a][10][C]; 34 *CFR* 300.148; *EC* 56175)

When may reimbursement be reduced or denied?

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon notice from the school district before removing your child from public school. You may also be denied reimbursement if you did not inform the school district that you were rejecting the special education placement proposed by the school district, including stating your concerns and intent to enroll your child in a private school at public expense.

Your notice to the school district must be given either:

- ❖ At the most recent IEP team meeting you attended before removing your child from the public school, or
- ❖ In writing to the school district at least ten (10) business days (including holidays) before removing your child from the public school. (20 *USC* 1412[a][10][C]; 34 *CFR* 300.148; *EC* 56176)

When may reimbursement not be reduced or denied?

A court or hearing officer must not reduce or deny reimbursement to you if you failed to provide written notice to the school district for any of the following reasons:

- ❖ The school prevented you from providing notice
- ❖ You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district
- ❖ Providing notice would likely have resulted in physical harm to your child

- ❖ Illiteracy and inability to write in English prevented you from providing notice, or
- ❖ Providing notice would likely have resulted in serious emotional harm to your child

(20 *USC* 1412[a] [10] [C]; 34 *CFR* 300.148; *EC* 56177)

STATE COMPLAINT PROCEDURES

When may I file a state compliance complaint?

You may file a state compliance complaint when you believe that a school district has violated federal or state special education laws or regulations. Your written complaint must specify at least one alleged violation of federal and state special education laws. The violation must have occurred not more than one year prior to the date the complaint is received by the California Department of Education (CDE). When filing a complaint, you must forward a copy of the complaint to the school district at the same time you file a state compliance complaint with the CDE. (34 *CFR* 300.151–153; 5 *CCR* 4600)

Complaints alleging violations of federal and state special education laws or regulations may be mailed to:

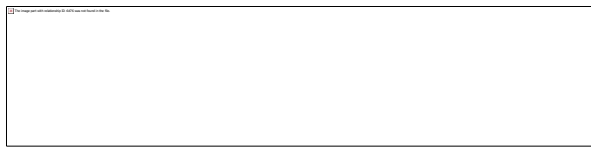
California Department of Education
 Special Education Division
 Procedural Safeguards Referral Service
 1430 N Street, Suite 2401
 Sacramento, CA 95814

For complaints involving issues **not** covered by federal or state special education laws or regulations, consult your district's uniform complaint procedures.

To obtain more information about dispute resolution, including how to file a complaint, contact the CDE, Special Education Division, Procedural Safeguards Referral Service, by telephone at (800) 926-0648; by fax at 916-327-3704; or by visiting the CDE Web site at <http://www.cde.ca.gov/sp/se>.

GLOSSARY OF ABBREVIATIONS USED IN THIS NOTIFICATION

ADR:	Alternative Dispute Resolution
CFR:	Code of Federal Regulations
EC:	California Education Code
FAPE:	Free Appropriate Public Education
IDEA:	Individuals with Disabilities Education Act
IEP:	Individualized Education Program
OAH:	Office of Administrative Hearings
SELPA:	Special Education Local Plan Area
USC:	United States Code



Home / Learning Support / Health / Health Services & School Nursing

Type 1 Diabetes Information

Pursuant to California Education Code Section 49452.6, this type 1 diabetes information is for local educational agencies to provide to parents and guardians of incoming elementary school students beginning January 1, 2023.

Type 1 diabetes in children is an autoimmune disease that can be fatal if untreated, and the guidance provided in this information sheet is intended to raise awareness about this disease.

Description

Type 1 diabetes usually develops in children and young adults but can occur at any age

- ☐ According to the U.S. Centers for Disease Control and Prevention (CDC), cases of type 1 diabetes in youth increased nationally from 187,000 in 2018 to 244,000 in 2019, representing an increase of 25 per 10,000 youths to 35 per 10,000 youths, respectively.
- ☐ The peak age of diagnosis of type 1 diabetes is 13-14 years, but diagnosis can also occur much earlier or later in life.

Type 1 diabetes affects insulin production

- ☐ As a normal function, the body turns the carbohydrates in food into glucose (blood sugar), the basic fuel for the body's cells.
- ☐ The pancreas makes insulin, a hormone that moves glucose from the blood into the cells. ☐ In type 1 diabetes, the body's pancreas stops making insulin, and blood glucose levels rise.
- ☐ Over time, glucose can reach dangerously high levels in the blood, which is called hyperglycemia.
- ☐ Untreated hyperglycemia can result in diabetic ketoacidosis (DKA), which is a life-threatening complication of diabetes.

Risk Factors Associated with Type 1 Diabetes

It is recommended that students displaying warning signs associated with type 1 diabetes, which are described below, should be screened (tested) for the disease by their health care provider.

Risk Factors

Researchers do not completely understand why some people develop type 1 diabetes and others do not; however, having a family history of type 1 diabetes can increase the likelihood of developing type 1 diabetes. Other factors may play a role in developing type 1 diabetes, including environmental triggers such as viruses. Type 1 diabetes is not caused by diet or lifestyle choices.

Warning Signs and Symptoms Associated with Type 1 Diabetes and Diabetic Ketoacidosis

Warning signs and symptoms of type 1 diabetes in children develop quickly, in a few weeks or months, and can be severe. If your child displays the warning signs below, contact your child's primary health care provider or pediatrician for a consultation to determine if screening your child for type 1 diabetes is appropriate:

- ☐ Increased thirst
- ☐ Increased urination, including bed-wetting after toilet training ☐
- Increased hunger, even after eating
- ☐ Unexplained weight loss ☐
- Feeling very tired
- ☐ Blurred vision
- ☐ Very dry skin
- ☐ Slow healing of sores or cuts
- ☐ Moodiness, restlessness, irritability, or behavior changes

DKA is a complication of untreated type 1 diabetes. DKA is a medical emergency. Symptoms include:

- ☐ Fruity breath
- ☐ Dry/flushed skin ☐
- Nausea
- ☐ Vomiting
- ☐ Stomach pains
- ☐ Trouble breathing ☐
- Confusion

Types of Diabetes Screening Tests That Are Available

- ☐ **Glycated hemoglobin (A1C) test.** A blood test measures the average blood sugar level over two to three months. An A1C level of 6.5 percent or higher on two separate tests indicates diabetes.
- ☐ **Random (non-fasting) blood sugar test.** A blood sample is taken any time without fasting. A random blood sugar level of 200 milligrams per deciliter (mg/dL) or higher suggests diabetes.
- ☐ **Fasting blood sugar test.** A blood sample is taken after an overnight fast. A level of 126 mg/dL or higher on two separate tests indicates diabetes.
- ☐ **Oral glucose tolerance test.** A test measuring the fasting blood sugar level after an overnight

fast with periodic testing for the next several hours after drinking a sugary liquid. A reading of

more than 200 mg/dL after two hours indicates diabetes.

Type 1 Diabetes Treatments

There are no known ways to prevent type 1 diabetes. Once type 1 diabetes develops, medication is the only treatment. If your child is diagnosed with type 1 diabetes, their health care provider will be able to help develop a treatment plan. Your child's health care provider may refer your child to an endocrinologist, a doctor specializing in the endocrine system and its disorders, such as diabetes.


Contact your student's school nurse, school administrator, or health care provider if you have questions.

References

[Centers for Disease Control and Prevention](#) 

[KidsHealth](#) 

[Mayo Clinic](#) 

[National Library of Medicine and National Institutes of Health's MedLine](#) 

Questions: Office of School-Based Health Programs | schoolnurse@cde.ca.gov

Last Reviewed: Tuesday, January 24, 2023

Excused Absences – Education Code section 48205

(a) Notwithstanding Section 48200, a pupil shall be excused from school when the absence is:

- (1) Due to the pupil's illness, including an absence for the benefit of the pupil's mental or behavioral health.
- (2) Due to quarantine under the direction of a county or city health officer.
- (3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered.
- (4) For the purpose of attending the funeral services or grieving the death of either a member of the pupil's immediate family, or of a person that is determined by the pupil's parent or guardian to be in such close association with the pupil as to be considered the pupil's immediate family, so long as the absence is not more than five days per incident.
- (5) For the purpose of jury duty in the manner provided for by law.
- (6) Due to the illness or medical appointment during school hours of a child of whom the pupil is the custodial parent, including absences to care for a sick child, for which the school shall not require a note from a doctor.
- (7) For justifiable personal reasons, including, but not limited to, an appearance in court, attendance at a funeral service, observance of a holiday or ceremony of the pupil's religion, attendance at a religious retreat, attendance at an employment conference, or attendance at an educational conference on the legislative or judicial process offered by a nonprofit organization, when the pupil's absence is requested in writing by the parent or guardian and approved by the principal or a designated representative pursuant to uniform standards established by the governing board of the school district.
- (8) For the purpose of serving as a member of a precinct board for an election pursuant to Section 12302 of the Elections Code.
- (9) For the purpose of spending time with a member of the pupil's immediate family who is an active duty member of the uniformed services, as defined in Section 49701, and has been called to duty for, is on leave from, or has immediately returned from, deployment to a combat zone or combat support position. Absences granted pursuant to this paragraph shall be granted for a period of time to be determined at the discretion of the superintendent of the school district.
- (10) For the purpose of attending the pupil's naturalization ceremony to become a United States citizen.
- (11) For the purpose of participating in a cultural ceremony or event.
- (12) (A) For the purpose of a middle school or high school pupil engaging in a civic or political event, as provided in subparagraph (B), provided that the pupil notifies the school ahead of the absence.
 - (B) (i) A middle school or high school pupil who is absent pursuant to subparagraph (A) is required to be excused for only one school-day-long absence per school year.
 - (ii) A middle school or high school pupil who is absent pursuant to subparagraph (A) may be permitted additional excused absences in the discretion of a school administrator, as described in subdivision (c) of Section 48260.
- (13) (A) For any of the purposes described in clauses (i) to (iii), inclusive, if an immediate family member of the pupil, or a person that is determined by the pupil's parent or guardian to be in such close association with the pupil as to be considered the pupil's immediate family, has died, so long as the absence is not more than three days per incident.
 - (i) To access services from a victim services organization or agency.
 - (ii) To access grief support services.
 - (iii) To participate in safety planning or to take other actions to increase the safety of the pupil or an immediate family member of the pupil, or a person that is determined by the pupil's parent or guardian to be in such close association with the pupil as to be considered the pupil's immediate

family, including, but not limited to, temporary or permanent relocation.

(B) Any absences beyond three days for the reasons described in subparagraph (A) shall be subject to the discretion of the school administrator, or their designee, pursuant to Section 48260.

(14) Authorized at the discretion of a school administrator, as described in subdivision (c) of Section 48260.

- (b) A pupil absent from school under this section shall be allowed to complete all assignments and tests missed during the absence that can be reasonably provided and, upon satisfactory completion within a reasonable period of time, shall be given full credit therefor. The teacher of the class from which a pupil is absent shall determine which tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.
- (c) For purposes of this section, attendance at religious retreats shall not exceed one schoolday per semester.
- (d) Absences pursuant to this section are deemed to be absences in computing average daily attendance and shall not generate state apportionment payments.
- (e) For purposes of this section, the following definitions apply:
 - (1) A “civic or political event” includes, but is not limited to, voting, poll working, strikes, public commenting, candidate speeches, political or civic forums, and town halls.
 - (2) Cultural” means relating to the habits, practices, beliefs, and traditions of a certain group of people.
 - (3) “Immediate family” means the parent or guardian, brother or sister, grandparent, or any other relative living in the household of the pupil.
 - (4) “Victim services organization or agency” has the same meaning as defined in paragraph (7) of subdivision (g) of Section 230.1 of the Labor Code

Education Code § 58501

The following notice shall be sent along with the notification of parents and guardians required by [Section 48980](#):

“Notice of Alternative Schools

California state law authorizes all school districts to provide for alternative schools. [Section 58500 of the Education Code](#) defines alternative school as a school or separate class group within a school which is operated in a manner designed to:

- (a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.
- (b) Recognize that the best learning takes place when the student learns because of his desire to learn.
- (c) Maintain a learning situation maximizing student self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.
- (d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.
- (e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

In the event any parent, pupil, or teacher is interested in further information concerning alternative schools, the county superintendent of schools, the administrative office of this district, and the principal’s office in each attendance unit have copies of the law available for your information. This law particularly authorizes interested persons to request the governing board of the district to establish alternative school programs in each district.”

Further, a copy shall be posted in at least two places normally visible to pupils, teachers, and visiting parents in each attendance unit for the entire month of March in each year.

Board Policy Manual
Pacific Grove Unified School District

Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 05/01/2017 | Last Revised Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

The Board of Trustees recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
3. After School Education and Safety programs (Education Code 8482-8484.65)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
6. Child care and development programs (Education Code 8200-8488)
7. Compensatory education (Education Code 54400)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content (Education Code 51228.1-51228.3)
10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)
11. Educational and graduation requirements for students in foster care, homeless students, students from military families, and students formerly in a juvenile court school (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)
13. Local control and accountability plan (Education Code 52075)
14. Migrant education (Education Code 54440-54445)
15. Physical education instructional minutes (Education Code 51210, 51222, 51223)
16. Student fees (Education Code 49010-49013)
17. Reasonable accommodations to a lactating student (Education Code 222)
18. Regional occupational centers and programs (Education Code 52300-52334.7)
19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)
20. School safety plans (Education Code 32280-32289)
21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
22. State preschool programs (Education Code 8207-8225)
23. State preschool health and safety issues in license-exempt programs (Education Code 8212)
24. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and

knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to the Department of Social Services. (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.
4. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.
5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)
6. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)
7. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)
8. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan

Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Childcare and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs

34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
California Department of Education Publication	Uniform Complaint Procedure 2021-22 Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
U.S. DOE, Office for Civil Rights Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	<u>Nondiscrimination In District Programs And Activities</u>
0420	<u>School Plans/ Site Councils</u>
0420	<u>School Plans/ Site Councils</u>
0430	<u>Comprehensive Local Plan For Special Education</u>
0430	<u>Comprehensive Local Plan For Special Education</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0470	<u>COVID-19 Mitigation Plan</u>
1100	<u>Communication With The Public</u>
1113	<u>District And School Web Sites</u>
1113	<u>District And School Web Sites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1220	<u>Citizen Advisory Committees</u>
1220	<u>Citizen Advisory Committees</u>
1250	<u>Visitors/ Outsiders</u>
1250	<u>Visitors/ Outsiders</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(3)	<u>Williams Uniform Complaint Procedures</u>
1313	<u>Civility</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3260	<u>Fees And Charges</u>

3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9-E(1)	Employee Notifications
4118	Dismissal/ Suspension/ Disciplinary Action
4118	Dismissal/ Suspension/ Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/ Privileged Information
4131	Staff Development
4212.9-E(1)	Employee Notifications
4218	Dismissal/ Suspension/ Disciplinary Action
4218	Dismissal/ Suspension/ Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/ Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9-E(1)	Employee Notifications
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/ Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment

5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline
5144-E PDF(1)	Discipline
5144.1	Suspension And Expulsion/ Due Process
5144.1	Suspension And Expulsion/ Due Process
5145.3	Nondiscrimination/ Harassment
5145.3	Nondiscrimination/ Harassment
5145.6	Parent/ Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/ Pregnant/ Parenting Students
5148	Child Care And Development
5148	Child Care And Development
6142.1	Sexual Health And HIV/ AIDS Prevention Instruction
6142.1	Sexual Health And HIV/ AIDS Prevention Instruction
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities

6145.2	Athletic Competition
6145.2	Athletic Competition
6146.1	High School Graduation Requirements
6146.1	High School Graduation Requirements
6152	Class Assignment
6152-E PDF(1)	Class Assignment
6152-E PDF(2)	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6164.2	Guidance/ Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students

6178	<u>Career Technical Education</u>
6178	<u>Career Technical Education</u>
6200	<u>Adult Education</u>
6200	<u>Adult Education</u>
9000	<u>Role Of The Board</u>
9011	<u>Disclosure Of Confidential/Privileged Information</u>
9012	<u>Board Member Electronic Communications</u>
9124	<u>Attorney</u>
9200	<u>Limits Of Board Member Authority</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>
9322	<u>Agenda/Meeting Materials</u>
9322-E(1)	<u>Agenda/Meeting Materials</u>

Board Policy Manual
Pacific Grove Unified School District

Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 05/01/2017 | Last Revised Date: 10/20/2022 | Last Reviewed Date:
10/20/2022

Except as may otherwise be specifically provided in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.

Compliance Officers

The district designates the individual(s), position(s), or unit(s) identified below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/ Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment.

Claudia Arellano, Director II Human Resources
435 Hillcrest Ave
Pacific Grove Ca 93950
831-646-6507
carellano@pgusd.org

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to

implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/ guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, homeless students, children of military families, and former juvenile court school students now enrolled in the district, as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.6 shall be posted on the district and district school web sites and may be provided through district-supported social media, if available.

The Superintendent or designee shall ensure that all students and parents/ guardians, including students and parents/ guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/ guardians with limited English proficiency.

Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4600)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.
3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is

the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board of Trustees. (5 CCR 4630)

4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
7. When a complainant of unlawful discrimination, harassment, intimidation, or bullying or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, and bullying, the

respondent shall be informed of any extension of the timeline agreed to by the complainant, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Investigation Report

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/ guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient (LEP) student or parent/ guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

For complaints alleging unlawful discrimination, harassment, intimidation, and bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/ guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/ guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/ guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/ guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP

6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Health and Safety Complaints in License-Exempt Preschool Programs

Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying parents/ guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE web site. (Education Code 8212; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8212; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8212; 5 CCR 4692)

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/ guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint⁹⁸as

filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent. (5 CCR 4693)

Policy Reference Disclaimer:

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State	Description
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs

Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972;

Discrimination based on sex

20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
California Department of Education Publication	Uniform Complaint Procedure 2021-22 Program Instrument Sample UCP Board Policies and Procedures
California Department of Education Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOE, Office for Civil Rights Publication	
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin ⁸³

Discrimination Affecting Limited English Proficient Persons, 2007

Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1113	District And School Web Sites
1113	District And School Web Sites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees

1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1312.4-E(3)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/ Privileged Information
4131	Staff Development
4212.9-E(1)	Employee Notifications
4218	Dismissal/ Suspension/ Disciplinary Action
4218	Dismissal/ Suspension/ Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release of Confidential/ Privileged Information
4231	Staff Development

4244	Complaints
4244	Complaints
4312.9-E(1)	Employee Notifications
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/ Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline
5144-E PDF(1)	Discipline
5144.1	Suspension And Expulsion/ Due Process
5144.1	Suspension And Expulsion/ Due Process
5145.3	Nondiscrimination/ Harassment
5145.3	Nondiscrimination/ Harassment
5145.6	Parent/ Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures

5145.71-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/ Pregnant/ Parenting Students</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6146.1	<u>High School Graduation Requirements</u>
6146.1	<u>High School Graduation Requirements</u>
6152	<u>Class Assignment</u>
6152-E PDF(1)	<u>Class Assignment</u>
6152-E PDF(2)	<u>Class Assignment</u>
6159	<u>Individualized Education Program</u>
6159	<u>Individualized Education Program</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6164.2	<u>Guidance/ Counseling Services</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>

6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6178	Career Technical Education
6178	Career Technical Education
6200	Adult Education
6200	Adult Education
9000	Role Of The Board
9011	Disclosure Of Confidential/ Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/ Meeting Materials
9322-E(1)	Agenda/ Meeting Materials

Exhibit 1312.3-E(1): Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

NOTICE TO PARENTS/ GUARDIANS, STUDENTS, AND TEACHERS: PRESCHOOL COMPLAINT RIGHTS

Parents/ Guardians, Students, and Teachers:

Pursuant to Education Code 8212, you are hereby notified that any California State Preschool Program that is exempt from licensure must have:

1. Outdoor shade that is safe and in good repair
2. Drinking water that is accessible and readily available throughout the day
3. Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children
4. Restroom facilities that are available only for preschoolers and kindergartners
5. Visual supervision of children at all times
6. Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time
7. Playground equipment that is safe, in good repair, and age appropriate

If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's uniform complaint procedures as required by law. A complaint form may be obtained at the school or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form when available from the following web site: <http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.

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Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs

Ed. Code 59000-59300	Special schools and centers
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
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20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age

34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
California Department of Education Publication	Uniform Complaint Procedure 2021-22 Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
U.S. DOE, Office for Civil Rights Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/ Site Councils
0420	School Plans/ Site Councils
0430	Comprehensive Local Plan For Special Education

0430	<u>Comprehensive Local Plan For Special Education</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0470	<u>COVID-19 Mitigation Plan</u>
1100	<u>Communication With The Public</u>
1113	<u>District And School Web Sites</u>
1113	<u>District And School Web Sites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1220	<u>Citizen Advisory Committees</u>
1220	<u>Citizen Advisory Committees</u>
1250	<u>Visitors/ Outsiders</u>
1250	<u>Visitors/ Outsiders</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(3)	<u>Williams Uniform Complaint Procedures</u>
1313	<u>Civility</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3260	<u>Fees And Charges</u>
3260	<u>Fees And Charges</u>
3555	<u>Nutrition Program Compliance</u>
3555-E(1)	<u>Nutrition Program Compliance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4030	<u>Nondiscrimination In Employment</u>

4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9-E(1)	Employee Notifications
4118	Dismissal/ Suspension/ Disciplinary Action
4118	Dismissal/ Suspension/ Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/ Privileged Information
4131	Staff Development
4212.9-E(1)	Employee Notifications
4218	Dismissal/ Suspension/ Disciplinary Action
4218	Dismissal/ Suspension/ Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/ Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9-E(1)	Employee Notifications
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/ Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco

5137	<u>Positive School Climate</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144-E PDF(1)	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.6	<u>Parent/ Guardian Notifications</u>
5145.7	<u>Sexual Harassment</u>
5145.7	<u>Sexual Harassment</u>
5145.71	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/ Pregnant/ Parenting Students</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6146.1	<u>High School Graduation Requirements</u>
6146.1	<u>High School Graduation Requirements</u>
6152	<u>Class Assignment</u>
6152-E PDF(1)	<u>Class Assignment</u>

6152-E PDF(2)	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6164.2	Guidance/ Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6178	Career Technical Education
6178	Career Technical Education
6200	Adult Education
6200	Adult Education
9000	Role Of The Board
9011	Disclosure Of Confidential/ Privileged Information

9012	<u>Board Member Electronic Communications</u>
9124	<u>Attorney</u>
9200	<u>Limits Of Board Member Authority</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>
9322	<u>Agenda/ Meeting Materials</u>
9322-E(1)	<u>Agenda/ Meeting Materials</u>

Exhibit 1312.3-E(2): Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

**PRESCHOOL COMPLAINT FORM:
UNIFORM COMPLAINT PROCEDURES**

Education Code 8212 requires that the district's uniform complaint procedures be used for the filing of complaints concerning noncompliance with health and safety standards for license-exempt California State Preschool Programs. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? ☐ Yes ☐ No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____

E-mail address, if any: _____

Date problem was observed: _____

Location of the problem that is the subject of this complaint:

School name/ address: _____

Room number/ name of room/ location of facility: _____

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

☐ The preschool does not have outdoor shade that is safe and in good repair.☐ Drinking water is not accessible and/or readily available throughout the day.☐ The preschool does not provide safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.☐ Restroom facilities are not available only for preschoolers and kindergartners.☐ The preschool program does not provide visual supervision of children at all times.☐ Indoor or outdoor space is not properly contained or fenced or does not provide sufficient space for the number of children using the space at any given time.

☐ Playground equipment is not safe, in good repair, or age appropriate.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation.

Please file this complaint at the following location:

(preschool administrator or designee)

(address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

(Signature)

(Date)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination

Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education

Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964

42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
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California Department of Education Publication	Sample UCP Board Policies and Procedures
U.S. DOE, Office for Civil Rights Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/ Site Councils
0420	School Plans/ Site Councils
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan

0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1113	District And School Web Sites
1113	District And School Web Sites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/ Outsiders
1250	Visitors/ Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1312.4-E(3)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9-E(1)	Employee Notifications
4118	Dismissal/ Suspension/ Disciplinary Action
4118	Dismissal/ Suspension/ Disciplinary Action

4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/ Privileged Information
4131	Staff Development
4212.9-E(1)	Employee Notifications
4218	Dismissal/ Suspension/ Disciplinary Action
4218	Dismissal/ Suspension/ Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/ Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9-E(1)	Employee Notifications
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/ Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting

5144	Discipline
5144	Discipline
5144-E PDF(1)	Discipline
5144.1	Suspension And Expulsion/ Due Process
5144.1	Suspension And Expulsion/ Due Process
5145.3	Nondiscrimination/ Harassment
5145.3	Nondiscrimination/ Harassment
5145.6	Parent/ Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/ Pregnant/ Parenting Students
5148	Child Care And Development
5148	Child Care And Development
6142.1	Sexual Health And HIV/ AIDS Prevention Instruction
6142.1	Sexual Health And HIV/ AIDS Prevention Instruction
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6146.1	High School Graduation Requirements
6146.1	High School Graduation Requirements
6152	Class Assignment
6152-E PDF(1)	Class Assignment
6152-E PDF(2)	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education

6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6164.2	<u>Guidance/ Counseling Services</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6171	<u>Title I Programs</u>
6171	<u>Title I Programs</u>
6173	<u>Education For Homeless Children</u>
6173	<u>Education For Homeless Children</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6173.2	<u>Education Of Children Of Military Families</u>
6173.2	<u>Education Of Children Of Military Families</u>
6173.3	<u>Education For Juvenile Court School Students</u>
6178	<u>Career Technical Education</u>
6178	<u>Career Technical Education</u>
6200	<u>Adult Education</u>
6200	<u>Adult Education</u>
9000	<u>Role Of The Board</u>
9011	<u>Disclosure Of Confidential/ Privileged Information</u>
9012	<u>Board Member Electronic Communications</u>
9124	<u>Attorney</u>
9200	<u>Limits Of Board Member Authority</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>

9321-E(2)

[Closed Session](#)

9322

[Agenda/ Meeting Materials](#)

9322-E(1)

[Agenda/ Meeting Materials](#)

Exhibit 1312.4-E(1): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

**NOTICE TO PARENTS/ GUARDIANS, STUDENTS, AND TEACHERS:
K-12 COMPLAINT RIGHTS**

Parents/ Guardians, Students, and Teachers:

Pursuant to Education Code 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's Williams uniform complaint procedures as required by law. A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following web site: [http:// www.cde.ca.gov/ re/ cp/ uc](http://www.cde.ca.gov/re/cp/uc). However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures

Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 60119	Hearing on sufficiency of instructional materials
Federal	Description
20 USC 6314	Title I schoolwide program
Management Resources	Description
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education, Williams Case
Website	California County Superintendents Educational Services Association
Website	CSBA

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/ Outsiders
1250	Visitors/ Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records

3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3514	<u>Environmental Safety</u>
3514.2	<u>Integrated Pest Management</u>
3550	<u>Food Service/ Child Nutrition Program</u>
3550	<u>Food Service/ Child Nutrition Program</u>
4112.2	<u>Certification</u>
4112.2	<u>Certification</u>
4112.22	<u>Staff Teaching English Learners</u>
4113	<u>Assignment</u>
4113	<u>Assignment</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
6142.92	<u>Mathematics Instruction</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.2	<u>Damaged Or Lost Instructional Materials</u>
9000	<u>Role Of The Board</u>
9012	<u>Board Member Electronic Communications</u>
9200	<u>Limits Of Board Member Authority</u>
9322	<u>Agenda/ Meeting Materials</u>
9322-E(1)	<u>Agenda/ Meeting Materials</u>

Board Policy Manual
Pacific Grove Unified School District

Exhibit 1312.4-E(2): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

K-12 COMPLAINT FORM:
Williams UNIFORM COMPLAINT PROCEDURES

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? ☐ Yes ☐ No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____

E-mail address, if any: _____

Date problem was observed: _____

Location of the problem that is the subject of this complaint:

School name/ address: _____

Course title/ grade level and teacher name: _____

Room number/ name of room/ location of facility: _____

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
 - A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
 - Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

- A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)
- A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
 - A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
 - A teacher is assigned to teach a class for which the teacher lacks subject matter competency.
3. Facilities conditions (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)
- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.
 - A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.
 - For a school serving any of grades 6-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom.
 - The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

Please file this complaint at the following location:

(principal or designee)

(address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

(Signature)

(Date)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures Ed.
Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 60119	Hearing on sufficiency of instructional materials
Federal	Description
20 USC 6314	Title I schoolwide program
Management Resources	Description
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education, Williams Case
Website	California County Superintendents Educational Services

[Association](#)

Website

[CSBA](#)

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/ Outsiders
1250	Visitors/ Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514.2	Integrated Pest Management
3550	Food Service/ Child Nutrition Program
3550	Food Service/ Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints

4344	<u>Complaints</u>
4344	<u>Complaints</u>
6142.92	<u>Mathematics Instruction</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.2	<u>Damaged Or Lost Instructional Materials</u>
9000	<u>Role Of The Board</u>
9012	<u>Board Member Electronic Communications</u>
9200	<u>Limits Of Board Member Authority</u>
9322	<u>Agenda/ Meeting Materials</u>
9322-E(1)	<u>Agenda/ Meeting Materials</u>

Exhibit 1312.4-E(3): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 03/01/2019 | Last Revised Date: 04/20/2023 | Last Reviewed Date:
04/20/2023**K-12 COMPLAINT FORM:****Williams UNIFORM COMPLAINT PROCEDURES**

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Response requested? ☐ Yes ☐ No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____

E-mail address, if any: _____

Date problem was observed: _____

Location of the problem that is the subject of this complaint:

School name/ address: _____

Course title/ grade level and teacher name: _____

Room number/ name of room/ location of facility: _____

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- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)
- A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
 - A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
 - A teacher is assigned to teach a class for which the teacher lacks subject matter competency.
3. Facilities conditions (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)
- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.
 - A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, paper towels or functional hand dryers.
 - For a school serving any of grades 6-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom.
 - The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

Please file this complaint at the following location:

(principal or designee)

(address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

(Signature)

(Date)

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5 CCR 4600-4670	Uniform complaint procedures
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Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures Ed.
Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 60119	Hearing on sufficiency of instructional materials
Federal	Description
20 USC 6314	Title I schoolwide program
Management Resources	Description
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction

Website	California Department of Education, Williams Case
Website	California County Superintendents Educational Services Association
Website	CSBA

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/ Outsiders
1250	Visitors/ Outsiders
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4344	<u>Complaints</u>
4344	<u>Complaints</u>
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6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
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9322	<u>Agenda/ Meeting Materials</u>
9322-E(1)	<u>Agenda/ Meeting Materials</u>

Board Policy Manual
Pacific Grove Unified School District

Policy 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 03/01/2012 | Last Revised Date: 10/20/2022 | Last Reviewed Date: 10/20/2022

The Board of Trustees is committed to maintaining a safe school environment that is free from sexual harassment of students by anyone at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment. The definition of "sexual harassment" under District policy, as well as under Title IX of the Education Amendments of 1972 ("Title IX") is described below. The administrative regulation used to process a known allegation of sexual harassment will depend upon the nature of the alleged conduct and if that alleged conduct meets the definition of sexual harassment under Title IX.

Sexual Harassment Under District Policy

"Sexual harassment" under District policy means unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916).

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity.

Sexual harassment also includes nonconsensual touching and cyber sexual bullying, as defined and prohibited by the California Penal Code and Education Code.

"Nonconsensual touching," as defined in Penal Code 243.4, means touching another person's intimate part against that person's will. "Touch" means direct physical contact or contact through the clothing of either person. "Intimate part" means sexual organ, anus, groin, or buttocks of any person, or the breast of a female.

"Cyber sexual bullying," as defined in Education Code 48900(r)(2)(A)(iii), means electronic dissemination of or solicitation or incitement to electronically disseminate a sexually explicit image or recording, by a student to another student or to school personnel, that causes the student to be in fear of harm, or a substantially detrimental effect on the student's physical or mental health, or the student's ability to benefit from the educational environment.

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off-campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant-victim of the conduct.

Sexual Harassment Under Title IX

Some sexual harassment prohibited by District policy, as described above, may also be prohibited under Title IX. Under Title IX, sexual harassment toward a student means conduct on the basis of sex that satisfies at least one of the following:

1. An employee conditioning the provision of an aid, benefit, or service of the district on the student-victim's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's educational program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined in (20 U.S.C. 1092 or 34 U.S.C. 12291.)

Sexual assault means actual or intentional physical sexual acts against a person without consent that may include: rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation,

sexual penetration, sexual battery, and sexual assault, as defined under Education Code 48900(n) and Penal Code 261, 266c, 286, 288, 288a, 289 and 243.4.

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (34 U.S.C. 12291(a)(10).)

Domestic violence means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws. (Ed. Code, § 48900, subd. (n).)

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. (34 U.S.C. 12291(a)(30).)

"Without consent" or "against that person's will" may include: force, duress, violence, fear of immediate harm, or one's inability to consent.

Reporting Allegations of Sexual Harassment

The district strongly encourages any student who believes they are being or have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact their teacher, the principal, one of the district's Title IX coordinators, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district Title IX coordinator. Once notified, the principal, coordinator or designee shall take the steps to investigate and address the allegation, as specified in the appropriate administrative regulation. Supportive measures should be offered to the complainant-victim and respondent, as deem appropriate.

Notice and Instruction Related to District Policy on Sexual Harassment

The Superintendent or designee shall inform students and parents/ guardians of the district's sexual harassment policy by disseminating it through parent/ guardian notifications, publishing it on the district's website, and including it in the student and staff handbooks.

The district shall also create a poster that notifies students of the district's sexual harassment policy, and display the poster in a prominent and conspicuous location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted, in each bathroom and locker room on campus.

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual harassment. All district staff shall be trained regarding the district policies that prohibits sexual harassment of students.

Complaint Processes

Title IX Complaints:

If the alleged conduct, if taken to be true, meets the definition sexual harassment under Title IX (as defined above), the complaint or allegation shall be investigated or otherwise resolved in accordance with the procedures outlined in Title IX and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. This determination shall be made by a district Title IX coordinator. If a complaint does not rise to the level of sexual harassment under Title IX, it may need to be formally dismissed pursuant to Title IX and AR 5145.71.

All Other Sexual Harassment Complaints:

If the alleged conduct, even if taken to be true, is sexual in nature but does not meet the definition of sexual harassment under Title IX, the complaint or allegation shall be investigated or otherwise resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. This determination shall be made by a district Title IX coordinator.

Disciplinary Actions

Upon completion of an investigation of a sexual harassment complaint, whether the investigation followed AR 1312.3 or AR 5145.71, any student found to have engaged in sexual harassment or sexual violence in violation of this policy and/ or Title IX shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/ or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall be subject to disciplinary action, up to and including termination in accordance with law and the applicable collective bargaining agreement.

Record-Keeping

In accordance with law, the Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools. Record-keeping requirements for complaints that fall under Title IX are detailed in AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Policy Reference Disclaimer:

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State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/ guardian for willful student misconduct
Ed. Code 48980	Parent/ Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Gov. Code 12950.1	Sexual harassment training
Federal	Description
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
Management Resources	Description
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for

	Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
U.S. DOE, Office for Civil Rights Publication	Q&A on Campus Sexual Misconduct, September 2017
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
U.S. DOE, Office for Civil Rights Publication Website	Dear Colleague Letter: Title IX Coordinators, April 2015
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/ Insurance
3530	Risk Management/ Insurance
3580	District Records

3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/ Suspension/ Disciplinary Action
4118	Dismissal/ Suspension/ Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4131	Staff Development
4218	Dismissal/ Suspension/ Disciplinary Action
4218	Dismissal/ Suspension/ Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4317.7	Employment Status Reports
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/ Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention

5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144-E PDF(1)	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5144.2	<u>Suspension And Expulsion/ Due Process (Students With Disabilities)</u>
5145.2	<u>Freedom Of Speech/ Expression</u>
5145.2	<u>Freedom Of Speech/ Expression</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.6	<u>Parent/ Guardian Notifications</u>
5145.71	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>

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Pacific Grove Unified School District

Regulation 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 10/01/2014 | Last Revised Date: 10/20/2022 | Last Reviewed Date:
10/20/2022**Reporting Process**

Any student or parent/ guardian who believes a student has been subjected to sexual harassment by another student, an employee, or any third party, or who has witnessed an incident of possible sexual harassment, is strongly encouraged to report the incident to their teacher, the principal, one of the district's Title IX coordinators, or any other available school employee and/ or to submit a complaint pursuant to AR 1312.3 - Uniform Complaint Procedures or AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Within one school day of receiving such a report/ complaint, or within one school day of observing an incident of sexual harassment involving a student, the school employee shall forward the complaint/report, or prepare and forward a written description of a verbal report or observation, to the principal or a Title IX coordinator identified herein. The employee shall take these actions, whether or not the alleged victim submits a complaint and regardless of the alleged victim's request for confidentiality. The Title IX coordinator will be responsible for assessing a victim's request for confidentiality, and will only initiate the Title IX Sexual Harassment Complaint Process - AR 5145.71 against the victim's wishes if doing so is not clearly unreasonable in light of the known circumstances.

If a report or complaint of sexual harassment is initially submitted to the principal, the principal shall forward the report or complaint to a Title IX coordinator that same day, or as soon as is reasonably possible.

In any case of sexual harassment involving the principal, Title IX coordinator or designee, or any other person to whom the incident would ordinarily be reported, the report/ complaint may instead be submitted to the Superintendent or designee who shall determine who will investigate the complaint.

When a verbal or informal report of sexual harassment is submitted, the principal and/ or Title IX coordinator shall inform the student or parent/ guardian of their right to file a formal written complaint in accordance with applicable district complaint procedures. As detailed in AR 5145.71, if the alleged conduct meets the definition of sexual harassment under Title IX, the Title IX coordinator must notify the student-victim of this right. If a complainant-victim refuses to reduce their complaint to writing in accordance with AR 1312.3 or AR 5145.71, the Title IX coordinator or designee shall reduce the verbal complaint to writing and may initiate an investigation into the verbal allegations pursuant to AR 1312.3 or AR 5145.71.

Title IX Coordinators

The district designates the following individuals as the employees responsible for coordinating its efforts to comply with Title IX of the Education Amendments of 1972, as well as to oversee, investigate, and/ or resolve sexual harassment complaints processed under AR 1312.3 - Uniform Complaint Procedures and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The Title IX Coordinator may be contacted at:

Claudia Arellano
Director II, Human Resources 435 Hilcrest Ave.
Pacific Grove, CA 93950 (831) 646-6507
carellano@pgusd.org

Supportive Measures and Response Pending Investigation

When an incident of sexual harassment is reported, the Title IX coordinator or designee, in consultation with the coordinator, shall determine whether supportive measures are necessary during and pending the result of an investigation to stop the alleged discrimination and ensure that all students have access to the educational program and a safe school environment.

Supportive measures will be implemented on a case-by-case basis and shall be offered to both complainants and respondents, as appropriate. Any supportive measures adopted to address alleged sexual harassment, or related retaliation shall, be designed to preserve equal access to the district's educational program or activity without unreasonably burdening the other involved party. The supportive measures shall remain in place until the Title IX coordinator determines that they are no longer necessary.

Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, academic support, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. All supportive measures shall be implemented in accordance with law and Board policy. Such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

Complaint Investigation and Resolution

The Title IX coordinator or designee shall contact the complainant (who is the victim of alleged misconduct) and investigate and resolve the complaint in accordance with law and district procedures. The Title IX coordinator will determine, based on the allegations and how sexual harassment is defined under Title IX and district policy, whether the complaint should be processed in accordance with AR 1312.3 - Uniform Complaint Procedures or AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Complaints that are filed but do not meet the definition of sexual harassment under Title IX may need to be formally dismissed pursuant to AR 5145.71.

When a report or complaint of sexual harassment involves off-campus conduct that was outside a district program or activity, the Title IX coordinator, or a designee who has consulted with the Title IX coordinator, shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX coordinator or designee determines that a hostile environment may be created, the complaint shall be investigated and resolved, as is deemed appropriate under the circumstances. At a minimum, supportive measures will be offered to the victim.

In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.

If sexual harassment is found following an investigation, the Title IX coordinator, or designee in consultation with the coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects.

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/ guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment, the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school (Education Code 231.6)
4. Be posted in a prominent location on the district's website in a manner that is easily accessible to parents/ guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee(s) designated as the district's Title IX Coordinator (Education Code 234.6; 34 CFR 106.8)
5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
6. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
7. Be included in any handbook provided to students, parents/ guardians, employees, or employee organizations (34 CFR 106.8)

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual harassment. Such instruction and information shall include:

1. Notice regarding which acts and behaviors constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sexual harassment under any circumstance
3. Encouragement to report observed incidents of sexual harassment even when the alleged victim of the harassment has not complained

4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students, in a manner deemed appropriate by a Title IX coordinator
6. Information about the district's procedures for investigating complaints and the person(s) to whom a report of sexual harassment should be made
7. Information about the rights of students and parents/ guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the district investigation of a sexual harassment complaint continues
8. A clear message that, when needed, the district will implement supportive measures to ensure a safe school environment for a student who is the complainant-victim of sexual harassment, and the respondent. Supportive measures will be designed to restore or preserve equal access to the district's educational program or activity without unreasonably burdening the other involved party.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/ guardian for willful student misconduct
Ed. Code 48980	Parent/ Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Gov. Code 12950.1	Sexual harassment training

Federal	Description
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
Management Resources	Description
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
U.S. DOE, Office for Civil Rights Publication	Q&A on Campus Sexual Misconduct, September 2017
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

U.S. DOE, Office for Civil Rights
Publication
Website
Website
Website
Website

Dear Colleague Letter: Title IX Coordinators, April 2015

[CSBA District and County Office of Education Legal Services](#)

[California Department of Education](#)

[CSBA](#)

[U.S. Department of Education, Office for Civil Rights](#)

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/ Insurance
3530	Risk Management/ Insurance
3580	District Records
3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/ Suspension/ Disciplinary Action
4118	Dismissal/ Suspension/ Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4131	Staff Development
4218	Dismissal/ Suspension/ Disciplinary Action

4218	<u>Dismissal/ Suspension/ Disciplinary Action</u>
4219.11	<u>Sexual Harassment</u>
4219.11	<u>Sexual Harassment</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4231	<u>Staff Development</u>
4317.7	<u>Employment Status Reports</u>
4319.11	<u>Sexual Harassment</u>
4319.11	<u>Sexual Harassment</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>
5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/ Peer Mediation</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144-E PDF(1)	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5144.1	<u>Suspension And Expulsion/ Due Process</u>
5144.2	<u>Suspension And Expulsion/ Due Process (Students With Disabilities)</u>
5145.2	<u>Freedom Of Speech/ Expression</u>

5145.2	<u>Freedom Of Speech/ Expression</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.3	<u>Nondiscrimination/ Harassment</u>
5145.6	<u>Parent/ Guardian Notifications</u>
5145.71	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/ AIDS Prevention Instruction</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>

Board Policy Manual
Pacific Grove Unified School District

Regulation 5145.71: Title IX Sexual Harassment Complaint Procedures**Status: ADOPTED**

Original Adopted Date: 07/01/2020 | **Last Revised Date:** 10/20/2022 | **Last Reviewed Date:** 10/20/2022

Sexual Harassment Under Title IX

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 ("Title IX") alleging that a student was subjected to one or more of the following forms of sexual harassment (34 CFR 106.30):

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

Sexual assault means actual or intentional physical sexual acts against a person without consent that may include: rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation, sexual penetration, sexual battery, and sexual assault, as defined under Education Code 48900(n) and Penal Code 261, 266c, 286, 288, 288a, 289 and 243.4.

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (34 U.S.C. 12291(a)(10).)

Domestic violence means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws. (Ed. Code, § 48900, subd. (n).)

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. (34 U.S.C. 12291(a)(30).)

"Without consent" or "against that person's will" may include: force, duress, violence, fear of immediate harm, or one's inability to consent.

The district shall respond to allegations of sexual harassment that, if true, meet the definition of sexual harassment under Title IX, when the alleged conduct occurs in the school's education program or activity, and against a person in the United States. "Education program or activity"

includes locations, events, or circumstances over which the school exercised substantial control

over both the respondent and the context in which the sexual harassment occurs.

All other sexual harassment complaints or allegations, brought by or on behalf of students, shall be investigated and resolved in accordance with AR 1312.3 - Uniform Complaint Procedures.

The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by a district Title IX coordinator.

Reporting and Filing a Formal Complaint of Sexual Harassment Under Title IX

Upon receiving such a report, the Title IX coordinator shall promptly meet with the complainant. The Title IX coordinator shall listen to the complainant's concerns, and inform the complainant of the process for filing a formal complaint, and their right to file or not file a formal complaint. The Title IX coordinator shall also discuss supportive measures with the complainant, and explain that supportive measures will be available regardless of whether a formal complaint is filed.

A "formal complaint" under Title IX means a document filed by a complainant (who must be the victim of the alleged conduct, or their parent/guardian) or signed by a district Title IX coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegation. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the district's educational program or activity.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX coordinator, using the contact information listed in AR 5145.7 - Sexual Harassment, in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal complaint, a Title IX coordinator shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX coordinator may file a formal complaint in other situations, as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX coordinator does not become a party to the case, and the victim will receive notices as required by the Title IX regulations at specific points in the complaint process.

The Superintendent or designee shall ensure that the Title IX coordinator, investigator, decision-maker, or a facilitator of an informal resolution process do not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, even if a formal complaint is not filed, the Title IX coordinator shall promptly contact the complainant-victim to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Supportive measures shall be designed to restore or preserve equal access to the district's educational program or activity without unreasonably burdening the other party, protect the safety of all parties or the district's educational environment; and to deter sexual harassments. Such measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, academic support, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. The Title IX coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44) Supportive measures, including those detailed herein, shall also be offered to the respondent upon receipt of a

formal complaint.

Emergency Removal from School

The district is prohibited from disciplining a student for alleged sexual harassment under Title IX until a full Title IX investigation has been completed. (§106.44, subd. (a).) However, on an emergency basis, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student cannot modify a student's rights under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Mandatory and Discretionary Dismissals of Title IX Complaints

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30, even if proved. The Title IX coordinator shall also dismiss any complaint wherein the alleged conduct did not occur in the district's education program or activity, did not occur against a person in the United States, or wherein the complainant was not participating or attempting to participate in the educational program at the time the complaint was filed. The Title IX coordinator may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.30(a), 34 CFR 106.45)

Upon dismissal, the Title IX coordinator shall promptly, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45) Both parties have the right to appeal a dismissal in accordance with the appeal procedures set forth below.

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, or on another appropriate basis, the allegations may still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures or other district policies and procedures, as is deemed appropriate under the circumstances.

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal

resolution process, including that records will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

Formal Complaint Process

Written Notice

If a formal complaint is filed, the Title IX coordinator shall provide the known parties (complainant and respondent) with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that were not included in the initial notice, the Title IX coordinator shall provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. That the parties may have an advisor of their choice who may be, but is not required to be, an attorney, and that the parties will have the ability to inspect and review evidence brought forth during the course of the investigation
5. That the parties are prohibited from knowingly making false statements or knowingly submitting false information during the complaint process
6. That there is a presumption that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance/complaint procedure

The above notice may also include the name of the investigator, facilitator of an informal process, and decision-maker. If at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party shall immediately notify a district Title IX coordinator.

Investigation Procedures

During the investigation process, the district and/or the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence

2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance/complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance/complaint proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Send in an electronic format or hard copy to both parties and their advisors, if any, any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

After sending the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker, who will not be the Title IX coordinator or investigator assigned to the matter, shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

Written Decision

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint. The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance/complaint process
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

The written decision shall also comply with the requirements outlined in the uniform complaint procedures for the issuance of an investigation report and appeal rights, as is necessary and required under the law.

Appeals

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR
3. 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

5. Issue a written decision describing the result of the appeal and the rationale for the result
6. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the notice of dismissal of a Title IX complaint or a written determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered. A written decision on the appeal shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

Corrective/Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

Record-Keeping

The Superintendent or designee shall maintain for a period of seven years a record of the following:

For formal complaints, the district shall maintain record of each Title IX investigations of sexual harassment, including any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

Where a Title IX allegation was reported, regardless of whether or not a formal complaint was filed, the district shall maintain a record of any actions, including supportive measures, taken in response to a report or formal complaint, or why it is reasonable that no supportive actions were taken, why the district's response was not deliberately indifferent, and the measures taken that were designed to restore or preserve equal access to the education program or activity.

The Superintendent or designee shall also maintain for a period of seven years all materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public. (34 CFR 106.45)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships
Ed. Code 200-262.4	Prohibition of discrimination on the basis of sex
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48985	Notices to parents in language other than English
Gov. Code 12950.1	Sexual harassment training
Federal	Description
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws

20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
Management Resources	Description
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Q&A on Campus Sexual Misconduct, September 2017
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Title IX Coordinators, April 2015
U.S. DOE, Office for Civil Rights	Examples of Policies and Emerging Practices for Support

Publication Website	Transgender Students, May 2016
Website	CSBA District and County Office of Education Legal Services
	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3580	District Records
3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4317.7	Employment Status Reports
4319.11	Sexual Harassment
4319.11	Sexual Harassment
5030	Student Wellness
5030	Student Wellness
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting

5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline
5144	Discipline
5144-E PDF(1)	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6159	Individualized Education Program
6159	Individualized Education Program
6164.5	Student Success Teams
6164.5	Student Success Teams
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504

Board Policy Manual
Pacific Grove Unified School District

Exhibit 5145.71-E(1): Title IX Sexual Harassment Complaint Procedures**Status: ADOPTED****Original Adopted Date:** 10/20/2022 | **Last Reviewed Date:** 10/20/2022

NOTICE OF TITLE IX SEXUAL HARASSMENT POLICY

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to students at all grade levels and their parents/guardians:

The district does not discriminate on the basis of sex in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any student for filing a complaint or exercising any right granted under Title IX.

Title IX requires a school district to take immediate and appropriate action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education or both.

The district has designated and authorized the following employee as the district's Title IX Coordinator to address concerns or inquiries regarding discrimination on the basis of sex, including sexual harassment, sexual assault, dating violence, domestic violence, and stalking:

(name and/or title/position)

(address)

(telephone number)

(email address)

Any individual may report sex discrimination, including sexual harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sexual harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sexual harassment, including the grievance process that complies with 34 CFR 106.45, please see BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures on the district's web site at _____(insert website link)_____.

To inspect or obtain a copy of the district's sexual harassment policies and administrative regulations, please contact: _____(insert location/phone/email of contact person) _____.

Materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person

who facilitates an informal resolution process are also publicly available on the district's web site or at the district office upon request.

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34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs 34
CFR 99.1-99.67	Family Educational Rights and Privacy
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	1447
Court Decision	<i>Gebser v. Lago Vista Independent School District</i> , (1998) 524 U.S. 274
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Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

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5145.3	Nondiscrimination/Harassment
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior

6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6159	<u>Individualized Education Program</u>
6159	<u>Individualized Education Program</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6164.6	<u>Identification And Education Under Section 504</u>
6164.6	<u>Identification And Education Under Section 504</u>

PACIFIC GROVE UNIFIED SCHOOL DISTRICT
435 Hillcrest Avenue Pacific
Grove, CA 93950
Elementary School Counseling Informed Consent Form

(For students 11 years or under only)

Pacific Grove Unified School District offers short-term individual and group counseling to students. Parents/guardians or school staff may refer students for counseling, or students may request counseling. Please initial the following:

_____ I understand that school counseling services are short-term services aimed at the more effective education and socialization of my child within the school community. I understand that these services are not intended as a substitute for diagnosing or treating any mental health disorder. I acknowledge that it is my responsibility to determine whether additional or different services are necessary and whether to seek them for my child.

_____ I understand that with some exceptions, the school counselor will keep the information confidential in order to build trust with my child. I understand that the school counselor may share information with parents/guardians, my child's teacher, and administrators or school personnel who work with my child on a need-to-know basis to better assist my child as a team.

_____ I understand that the counselor is required to share information with parents or the principal if the child is in danger of harm to self or others. The counselor is also required by law to report suspected or known child abuse or neglect.

The counselor will make my child aware of these confidentiality limits and inform my child when sharing information with others. If you would like the counselor to share information with a third party, such as a community counselor, psychiatrist, social services worker, or pediatrician, you must sign an additional release of information form.

I encourage you to contact us whenever you have a question, input, or concern or would like an update on your child's progress in counseling.

Sonda Frudden, Robert Down Elementary School Counselor
 Zoe Roach, Forest Grove Elementary School Counselor
 Cori Rosenberg, Mental Health Counselor

sfrudden@pgusd.org
zroach@pgusd.org
crosenberg@pgusd.org

831-291-3389
 831-287-6762.
 831-646-6575

Child's Name _____

Grade _____ Teacher _____

I, _____, am the

Legal parent/guardian of _____.

I have read, understand, and agree to the above School Counseling Informed Consent terms.

Please check one:

☐ I give my consent for my child to receive school counseling services. I understand that I may withdraw my consent by signing and dating a written note requesting the termination of counseling services.

☐ I choose to decline school counseling services for my child at this time. I understand that I may request counseling services later if needed.

Parent/Guardian (Signature):

Date: _____

Pacific Grove Unified School District Firearms Safety Memorandum To:

Parents and Guardians of Students in the Pacific Grove Unified School District From:

Superintendent Dr. Linda Adamson

Subject: California Law Regarding Safe Storage of Firearms

The purpose of this memorandum is to inform and to remind parents and legal guardians of all students in the Pacific Grove Unified School District of their responsibilities for keeping firearms out of the hands of children as required by California law. There have been many news reports of children bringing firearms to school. In many instances, the child obtained the firearm(s) from his or her home. **These incidents can be easily prevented by storing firearms in a safe and secure manner, including keeping them locked up when not in use and storing them separately from ammunition.**

To help everyone understand their legal responsibilities, this memorandum spells out California law regarding the storage of firearms. Please take some time to review this memorandum and evaluate your own personal practices to assure that you and your family are in compliance with California law.

- With very limited exceptions, California makes a person criminally liable for keeping any firearm, loaded or unloaded, within any premises that are under their custody and control where that person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, and the child obtains access to the firearm and thereby
 - (1) causes death or injury to the child or any other person; (2) carries the firearm off the premises or to a public place, including to any preschool or school grades kindergarten through twelfth grade, or to any school-sponsored event, activity, or performance; or (3) unlawfully brandishes the firearm to others.¹
 - o Note: The criminal penalty may be significantly greater if someone dies or suffers great bodily injury as a result of the child gaining access to the firearm.
- With very limited exceptions, California also makes it a crime for a person to negligently store or leave any firearm, loaded or unloaded, on their premises in a location where the person knows or reasonably should know that a child is likely to gain access to it without the permission of the child's parent or legal guardian, unless reasonable action is taken to secure the firearm against access by the child, even where a minor never actually accesses the firearm.²

¹ See California Penal Code sections 25100 through 25125 and 25200 through 25220.

² See California Penal Code section 25100(c).

- In addition to potential fines and terms of imprisonment, as of January 1, 2020, a gun owner found criminally liable under these California laws faces prohibitions from possessing, controlling, owning, receiving, or purchasing a firearm for 10 years.³
- Finally, a parent or guardian may also be civilly liable for damages resulting from the discharge of a firearm by that person's child or ward.⁴

Note: Your county or city may have additional restrictions regarding the safe storage of firearms.

Thank you for helping to keep our children and schools safe. Remember that the easiest and safest way to comply with the law is to keep firearms in a locked container or secured with a locking device that renders the firearm inoperable.

Sincerely,



Dr. Linda Adamson
Superintendent

Date published: July 3, 2024
California Department of Education

³ See California Civil Code Section 29805.

⁴ See California Civil Code Section 1714.3.