

**GRAVENSTEIN UNION SCHOOL DISTRICT  
REGULAR BOARD MEETING  
MINUTES**

December 12, 2012

**CALL TO ORDER**

Pres. Horn called the meeting to order at 5:02 PM. Members Beck, Clerk Wickland and Pres. Horn present.

**PUBLIC INPUT ON ITEMS NOT ON THE AGENDA**

No input

**APPROVAL OF CONSENT AGENDA**

**A. Approval of Agenda Order**

**B. Approval of Minutes :  
Regular Meeting Minutes  
November 14, 2012**

**C. Vendor Warrants**

Clerk Wickland commented that the detail on the vendor warrants was much appreciated. Pres. Horn moved to approve the consent agenda, Clerk Wickland seconded, 3-0 yes.

Mem. Zlotnick arrived at 5:06 pm.

**Board Reports**

No board reports

**Superintendent Reports**

**Enrollment – December 2012**

Supt. reported that 6 four year olds in the pre-school will be turning five in December and January, and therefore will become members of the transitional kindergarten.

**Kindergarten Update for 2013-14**

Individual tours with prospective kindergarten families began in November this year. The Supt. has decided to perform group tours because of the amount of interest.

**Hillcrest Building Update**

One of the last checks is going out to Bay West Construction, and there is less than \$2,000 being held for the last items to be completed. Supt. LaMarre has begun talking to Doug Hilberman about replacing the portables on the Gravenstein campus currently used for daycare and staff lunch room. This will be discussed later in the evening.

**Home-to-School Transportation**

Supt. LaMarre shared information from the latest meeting of the JPA Board.

<b>Gravenstein Track Update</b>	No update
<b>California Distinguished School Application</b>	The application has been submitted.
<b>District Student/Family Directory</b>	Directories will be coming out January 7, 2013.
<b><u>Hillcrest Report</u></b>	Principal Fichera reported on GPA distribution for Trimester 1 and the various Trimester award activities.
<b><u>GUTA Report</u></b>	GUTA Co-President Linda Helton thanked the board for the 2011-12 off-schedule payment.
<b><u>BUSINESS</u></b>	
<b>Certificate of Election of Board President</b>	Pres. Horn moved to elect Sandra Wickland to board president, Mem. Zlotnick seconded, 4-0 yes.
<b>Certificate of Election of Board Clerk</b>	Clerk. Wickland moved to nominate Mem. Zlotnick to Board Clerk, Pres. Horn seconded, 4-0 yes.
<b>Representative to fill Vacancy of the Sonoma County Committee on School District Organization</b>	Pres. Horn nominated himself for this position, Mem. Zlotnick seconded, 4-0 yes.
<b>Alternate Representative to fill Vacancy of the Sonoma County Committee on School District Organization</b>	Pres. Horn nominated Mem. Zlotnick for this position, Clerk Wickland seconded, 4-0 yes.
<b>Day of the week, time and frequency of Regular Monthly Meetings</b>	Pres. Horn moved to continue having the meetings the second Wednesday of the month, 5 PM in room 13 at Gravenstein Elementary, Mem. Zlotnick seconded, 4-0 yes.
<b>Acceptance and Certification of 2011-12 Fiscal Year Financial Audit</b>	Supt. LaMarre recommended that this be tabled until January since bound copies of the audit have not been received. Pres. Horn moved to table this item until the January regular meeting, Clerk Wickland seconded, 4-0 yes.
<b>Preschool Update Budget Update</b>	Supt. LaMarre reported that the Preschool is currently showing a gain of \$3,119 and the transitional kindergarten is showing a loss of \$4,353. Supt. LaMarre projects that next year there might be a need for separate preschool room. We will have at least 17

transitional kindergarten students this year and next year the age requirement lowers, so that class could grow.

## **1<sup>st</sup> Interim Budget Report 2012-13**

It is recommended by SCOE that the money currently in the budget from the "basic aid supplemental" be considered one-time money when it comes through.

Clerk Wickland moved to approve the first interim budget, Mem. Zlotnick seconded, 4-0 yes.

Pres. Horn said that once the Measure is certified, there are 60 days to create the bond oversight committee.

## **Certify Measure M Results**

Pres. Horn moved to certify Measure M results, Mem. Zlotnick seconded, 4-0 yes.

Mem. Zlotnick moved to authorize Supt. LaMarre to prepare an RFQ, Clerk Wickland seconded, 3-0 yes, Pres. Horn abstained on advice of legal counsel due to potential conflict of interest.

## **Authorization of RFQ for Architectural Services for Bond Construction**

Supt. LaMarre shared a cost template for a project budget to replace these buildings. No action taken.

## **Discuss Replacement of Gravenstein Daycare/Staff Lunch Room**

Supt. LaMarre has been discussing this with architect Doug Hilberman. No action taken.

## **Discuss Replacement of Playground Equipment at Gravenstein an Hillcrest Schools**

Supt. LaMarre has been discussing this with architect Doug Hilberman. No action taken.

## **Annual Developer Fees Report**

The account is up to nearly \$40,000. The intent of it is for new buildings needed for growth. Clerk Wickland moved to approve the fees report, Pres. Horn seconded, 4-0 yes.

## **Policies**

### **BP/AR and E 3541.1 Transportation For School Related Trips**

A parent has raised concern over the vehicles that parents are driving on field trips. Pres. Horn moved to table this to the January meeting, Mem. Zlotnick seconded. 4-0 yes.

### **BP/AR 5144.1 Suspension and Expulsion/Due Process**

Pres. Horn moved to table the policies to the January meeting, Mem. Zlotnick seconded, 4-0 yes.

## **FUTURE MEETING DATES AND AGENDA ITEMS**

**Next Regularly Scheduled Board Meeting – January 9, 2012 at Gravenstein School Room 13**

**PUBLIC COMMENT ON ITEMS IN  
CLOSED SESSION**

Pres. Horn moved to adjourn to closed session at 7:35 PM, Mem. Zlotnick seconded, 4-0 yes.

**ADJOURN TO CLOSED SESSION**

- A. Hiring – Temporary Walk-on  
Coaches: 6<sup>th</sup> Boys Basketball  
– Jim Fain, 6<sup>th</sup> Girls  
Basketball – John Kolsrud
  
- B. Conference with Labor  
Negotiator, District – Mrs.  
LaMarre, Ne of Organization  
– Gravenstein Union  
Teachers Association
  
- C. Potential Litigation – per  
GC54956.9 (b)(3)(c)
  
- D. Public Employee –  
Discipline/Dismissal/Release
  
- E. Superintendent Evaluation

**RECONVENE TO OPEN SESSION**

Member Zlotnick moved and Clerk Wickland seconded to reconvene to open session at 8:12 PM - Vote-4-0 yes.

**Announce action taken in Closed  
Session**

Hiring from item A was announced in Open Session.

**ADJOURNMENT**

Pres. Horn moved and member Beck seconded to adjourn at 8:13 PM - Vote- 4-0 yes.

Checks Dated 12/13/2012 through 01/02/2013

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
1233850	12/14/2012	At&T Mobility	01-5912	Superintendent's Nov, 2012 cell phone statement	2.75	
			03-5912	Superintendent's Nov, 2012 cell phone statement	37.15	
			04-5912	Superintendent's Nov, 2012 cell phone statement	28.90	68.80
1233851	12/14/2012	Cambium Learning Inc.	04-4310	4i Cambrium interactive texts E, D & assessmt D		212.92
1233852	12/14/2012	Clover-Stornetta Farms Inc.	13-4710	Nov, 2012 milk charges for Hill & Grav		451.80
1233853	12/14/2012	Houghton Mifflin Harcourt	04-4310	Fast Forward Math (Houghton Mifflin Harcourt Publ.		151.95
1233854	12/14/2012	Office Depot	01-4350	Grav custodial, preK, school office supplies	1.74	
			03-4350	Grav custodial, preK, school office supplies	20.07	
			03-4370	Grav custodial, preK, school office supplies	23.72	
			04-4310	Daycare/Jex-Lewis 7-8th/Rich 6th supplies	32.75	
			12-4350	Daycare/Jex-Lewis 7-8th/Rich 6th supplies	181.55	
1233855	12/14/2012	Preferred Meal Systems	13-4710	Grav custodial, preK, school office supplies	12.31	272.14
1233856	12/14/2012	At&T Global Services, Inc	04-5911	Hillcrest lunches 12/5-12/11/12		334.66
1233857	12/14/2012	Curry's Discount Inc.	01-4350	Maintenance for Hill phones contract #EB16142425		1,365.12
			03-4350	Office Supplies - DO	8.93	
			04-4350	Office Supplies - DO	120.49	
1233858	12/14/2012	John Elze	04-4350	Office Supplies - DO	93.71	223.13
1233859	12/14/2012	Jerri Leighton	04-5880	6th BBall Ref Elize vs Wms. 12/4/12		35.00
1233860	12/14/2012	Ricoh Americas Corporation	12-4310	Snack food & supplies for Daycare 12/3/12		101.60
			01-5631	Ricoh 11/15-12/14/12 charges	40.10	
			03-5631	Ricoh 11/15-12/14/12 charges	461.12	
			04-5631	Ricoh 11/15-12/14/12 charges	250.60	
1233861	12/14/2012	Sonoma County Office Of Ed.	01-5862	Fingerprinting Y12-13	14.56	751.82
			03-5862	Fingerprinting Y12-13	196.56	
			04-5862	Fingerprinting Y12-13	152.88	
1233862	12/14/2012	Sonoma County Wildlife Rescue	03-5826	Enrick Gr 2 1/30/13 Wildlife Rescue		364.00
1233863	12/14/2012	U.S. Postal Service	01-5950	Bulk mail permit cal yr 2013 #59	7.60	125.00
			03-5950	Bulk mail permit cal yr 2013 #59	102.60	
			04-5950	Bulk mail permit cal yr 2013 #59	79.80	190.00
1234516	12/17/2012	Allison Rich	04-5826	Cal Academy 11/20/12 FT reimbursement	208.50	
1234772	12/19/2012	At&T Calnet2	04-5911	Cal Academy 11/20/12 FT reimbursement Nov, 2012 AT&T Calnet2 bill-Hillcrest	208.50	417.00
						60.98

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

Checks Dated 12/13/2012 through 01/02/2013

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
1234773	12/19/2012	Curry's Discount Inc.	01-4350	Ink cartridge	4.19	
			03-4350	Ink cartridge	56.64	
			04-4350	Ink cartridge	44.05	104.88
1234774	12/19/2012	Department Of Justice	03-5862	Nov, 2012 fingerprint application charges	128.00	
			04-5862	Nov, 2012 fingerprint application charges	64.00	192.00
1234775	12/19/2012	Forestville Academy	04-5300	Hill boys Bball tournament @ Forestville Academy		125.00
1234776	12/19/2012	Jack Schreder & Associates	01-5830	Nov, 2012 activities: School Facility Program	46.34	
			03-5830	Nov, 2012 activities: School Facility Program	625.73	
			04-5830	Nov, 2012 activities: School Facility Program	486.68	1,158.75
1234777	12/19/2012	Mike Foster	04-5880	6th gr Flag Fbball-Willowside 10/3/12		35.00
1234778	12/19/2012	Monterey Bay Aquarium	04-5826	7th Gr Monterey Field Trip 2/11/13		7,875.00
1234779	12/19/2012	Sebastopol Lock Shop	04-4380	New safe padlock @ Hillcrest		11.91
1234780	12/19/2012	UCCR/Web of Life Field School	04-5826	Remaining balance for Oct. trip.		9,550.12
1234781	12/19/2012	West County Transportation	03-5804	SE Transport Nov, 2012		1,140.00
1234782	12/19/2012	Redwood Pediatric Therapy Asso	04-5811	Pediatric assessment for Hillcrest student 12/5/12		550.00
1234783	12/19/2012	Weeks Drilling & Pump Co. Inc.	01-5530	Oct 2012 water service charge-Grav	17.47	
			03-5530	Oct 2012 water service charge-Grav	200.95	
			04-5530	Oct 2012 water service charge-Grav	210.00	428.42
1235649	12/21/2012	Business Card	01-5880	Board meeting & business lunch 11/13 & 11/30/12	3.23	
			03-5880	Board meeting & business lunch 11/13 & 11/30/12	43.79	
			04-5880	Board meeting & business lunch 11/13 & 11/30/12	34.07	81.09
1235650	12/21/2012	Curry's Discount Inc.	01-4350	Ink cartridge	1.40	
			03-4350	Ink cartridge	18.88	
			04-4350	Ink cartridge	14.68	34.96
1235651	12/21/2012	Interstate Music Supply	04-4310	Drum kit upgrades		305.42
1235652	12/21/2012	Santa Rosa Fire Equipment Inc.	04-5600	Recharge fire extinguisher @ Hill staff room		17.26
1235653	12/21/2012	Vanessa Nordstrom	04-5826	Admission reimbursement for Jack London St Pk		55.00
1236526	01/02/2013	California's Valued Trust	01-9572	Jan, 2013 coverage		42,360.00
1236527	01/02/2013	All-Guard Alarm Systems, Inc	01-5830	Binkley All Guard Yr 12-13	6.00	
			03-5830	Binkley All Guard Yr 12-13	69.00	

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE

ONLINE

Page 2 of 4

Checks Dated 12/13/2012 through 01/02/2013

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
1236527	01/02/2013	All-Guard Alarm Systems, Inc	04-5830	Binkley All Guard Yr 12-13	75.00	150.00
1236528	01/02/2013	Cheryl Wagner	03-5826	Mrs. Clause pgm 1st 12/17/12 @ 2-3 pm		125.00
1236529	01/02/2013	Grainger Inc.	01-4380	Replace light bulbs @ Grav MPR	51.46	
			03-4380	Replace light bulbs @ Grav MPR	591.73	643.19
1236530	01/02/2013	Office Depot	01-4310	Equipment & supplies for Spch, Hill, 1st, Charter	10.24	
			03-4310	Equipment & supplies for Spch, Hill, 1st, Charter	51.62	
			04-4310	Grav Charter supplies	66.81	
			04-4310	Grav Charter supplies	25.62	
			04-4350	Print cartridges for principal's office printer	134.04	
			04-4350	Equipment & supplies for Spch, Hill, 1st, Charter	200.56	488.89
1236531	01/02/2013	Pacific Gas & Electric	01-5520	YR 12-13 Gas/Electric Balance of orig PO	.78	
			03-5520	YR 12-13 Gas/Electric Balance of orig PO	9.06	
			04-5520	YR 12-13 Gas/Electric Balance of orig PO	9.84	
			12-5520	YR 12-13 Gas/Electric Balance of orig PO	.46	20.14
1236532	01/02/2013	Pliney Bowes	01-5950	Mailing system rental 9/30 - 12/30/12	5.08	
			03-5950	Mailing system rental 9/30 - 12/30/12	68.49	
			04-5950	Mailing system rental 9/30 - 12/30/12	53.27	126.84
1236533	01/02/2013	Preferred Meal Systems	13-4710	Grav lunches 12/5-12/11/12	13.50	667.24
1236534	01/02/2013	Ricoh Americas Corporation	01-5631	Dec 2012 Ricoh statement	155.27	
			03-5631	Dec 2012 Ricoh statement	162.28	331.05
1236535	01/02/2013	Schulz Museum	04-5631	Rewards trips for Hillcrest Middle School	12.32	448.00
1236536	01/02/2013	Sonoma County Office Of Ed.	01-5862	Fingerprinting Y12-13	166.32	
			03-5862	Fingerprinting Y12-13	129.36	308.00
			04-5862	Fingerprinting Y12-13		
Total Number of Checks					43	72,459.08

**Fund Summary**

Fund	Description	Check Count	Expensed Amount
		43	72,459.08

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

Checks Dated 12/13/2012 through 01/02/2013

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
--------------	------------	---------------------	-------------	---------	-----------------	--------------

**Fund Summary**

Fund	Description	Check Count	Expensed Amount
01	General Fund	19	42,607.69
03	Gravenstein Elementary Charter	22	4,604.00
04	Hillcrest Middle Charter	34	23,497.77
12	Child Development Fund	3	295.92
13	Cafeteria Fund	3	1,453.70
Total Number of Checks		43	72,459.08
Less Unpaid Sales Tax Liability			.00
<b>Net (Check Amount)</b>			<b>72,459.08</b>

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE

ONLINE

Page 4 of 4



**Gravenstein Union School District**  
**Williams Settlement**  
 Quarterly Uniform Complaint Report Summary

Education Code §35186(d): A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

**Reporting Period:**

- January 1 - March 31, 2013       April 1 - June 30, 2013  
 July 1 - September 30, 2012       October 1 - December 31, 2012

**No complaints were received during the above time period.**

*If you received any complaints during the above time period, please complete the following table. Enter "0" in any cell that does not apply.*

	Complaints Received	Complaints Resolved	Unresolved Complaints
Instructional Materials	0	0	0
Facilities	0	0	0
Teacher Vacancy and/or Mis-assignment	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

Board meeting date: 1/09/13  
 Date sent to County Superintendent of Schools: 1/10/13  
 Sonoma County Office of Education  
 5340 Skylane Blvd.  
 Santa Rosa, CA 95403

<b>January, 2013</b>										<b>Totals</b>
<b>Teachers</b>	<b>K</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	
Clark- ENRICH!	17									17
Hanchey	21									21
Crandall - ENRICH!	16									16
Stevenson	10	9								19
Mickel	11									11
Buttner		20								20
Gruner- ENRICH!		20								20
Candau - ENRICH!		19								19
Imholz -ENRICH!			20							20
DeBolt - ENRICH!			21							21
Sprinkle			20							20
Trivunovic			8	9						17
Carlson				18						18
Mackin -ENRICH!				18						18
Mattish - ENRICH!				16						16
Brown - ENRICH!					24					24
Radford					16	7				23
Hillier -ENRICH!					24					24
Lands						24				24
Chako -ENRICH!						18				18
Oakley					4	1				5
Pugno - ENRICH!						19				19
Helton							18			18
Dexter							21			21
Latham -ENRICH!							21			21
Rich - ENRICH!							25			25
Gorman -ENRICH!								26		26
Collins - ENRICH!								27		27
Weber								29		29
Terschuren								29		29
Sporrer - ENRICH!									23	23
Shore -ENRICH!									22	22
Nordstrom									27	27
Fisher									6	6
Pell									23	23
<b>Gravenstein Campus</b>	<b>75</b>	<b>68</b>	<b>69</b>	<b>61</b>	<b>68</b>	<b>69</b>				<b>411</b>
<b>Hillcrest Campus</b>							<b>85</b>	<b>111</b>	<b>101</b>	<b>297</b>
<b>January, 2013</b>	<b>75</b>	<b>68</b>	<b>69</b>	<b>61</b>	<b>68</b>	<b>69</b>	<b>85</b>	<b>111</b>	<b>101</b>	<b>708</b>
January, 2012	80	71	61	68	64	86	90	92	78	690
January, 2011	67	54	62	52	83	73	83	75	91	640
January, 2010	56	61	48	76	69	69	65	84	92	620

# Kindergarten Open House!

Saturday, January 26, 2013  
10:00 AM

Gravenstein Union School District

**Registration and  
Open House for  
Kindergarten and  
all new students in  
all grades**



## **ENRICH! Creative Arts/GATE and Traditional Programs**

This event is for all **new** students registering for the 2013-2014 school year—including all grade levels. Meet our teachers and visit classrooms at 10 AM, followed by a presentation on our programs from 10:30 -11:30 AM. Also - Information about Transitional Kindergarten!

**All registration forms are available on our district website—[www.grav.k12.ca.us](http://www.grav.k12.ca.us).** Paperwork will be accepted to secure your child's registration at Gravenstein Elementary School

Contact **Linda LaMarre** at **707.823.7008**  
or email [llamarre@grav.k12.ca.us](mailto:llamarre@grav.k12.ca.us).

**January 26, 2013**

**10-11:30 AM**

**Gravenstein Elementary School**

**3840 Twig Ave., Sebastopol**

**[www.grav.k12.ca.us](http://www.grav.k12.ca.us)**





## **GRAVENSTEIN UNION SCHOOL DISTRICT**

---

**Linda J. LaMarre, Superintendent**  
3840 Twig Avenue  
Sebastopol, CA 95472  
707-823-7008 (v)  
707-823-2108 (f)  
Email: [llamarre@grav.k12.ca.us](mailto:llamarre@grav.k12.ca.us)

**Board of Trustees**  
Desiree Beck  
Jim Horn  
Jeff Weaver  
Sandra Wickland  
Jan Zlotnick

---

December 12, 2012

The Gravenstein Union School District is seeking proposals from experienced architects to provide full architectural services ("Project Architect") through the design and construction phases of the District's bond measure (approved November 6, 2012), and for other projects as they arise. The selected architect will provide architectural planning and design services to the District for new construction and modernization to improve the facilities at two campuses. I have enclosed a copy of the Request for Qualifications (RFQ). The RFQ outlines the selection criteria to be employed by the District and the timeline for submission.

I encourage you to examine the document to determine if your firm wishes to join our facility improvement team to improve the educational environment for the students in the Gravenstein district.

The timeline for submission of your proposal is included on the last page of the document. The District intends to recommend the selection of an architect no later than the February 2013 meeting of the Board of Trustees.

Sincerely yours,

Linda J. LaMarre  
Superintendent of Schools

**REQUEST FOR PROPOSALS  
ARCHITECTURAL PLANNING / DESIGN / CONSTRUCTION SERVICES**

The Gravenstein Union School District is requesting qualified persons, firms, partnerships, corporations, associations, or professional organizations to provide a full proposal for architectural planning and design services to the District for new construction and modernization of Gravenstein Elementary School and Hillcrest Middle School, and for other projects as they arise.

Respondents to this RFQ should mail or deliver eight (8) bound copies and one (1) unbound copy of their Submittals, as further described herein, to:

Gravenstein Union School District  
3840 Twig Avenue  
Sebastopol, CA 95472  
Attn: Linda J. LaMarre, Superintendent

ALL RESPONSES ARE DUE BY 4:00 P.M. ON FRIDAY, JANUARY 25, 2013. FAX OR EMAIL RESPONSES WILL NOT BE ACCEPTED.

**REQUEST FOR QUALIFICATIONS BACKGROUND**

The Gravenstein Union School District is a K-8 school district serving the area south of Sebastopol. The district includes two campuses: Gravenstein Elementary School and Hillcrest Middle School. For the 2012-2013 school year, district enrollment is approximately 700 students. The District is seeking Submittals under this Request for Qualifications (RFQ) from experienced entities to provide full architectural services (Project Architect) through the design and construction phases of the District's bond measure (approved by voters November 6, 2012), and for other projects as they arise.

This RFQ defines the design services sought from the Project Architect and generally outlines the Program requirements. Briefly stated, the District is seeking experienced and proven design professionals to provide planning, programming and design services on the Project that will enhance the operational objectives of the District. The District reserves the option to divide the project and award to more than one architect.

**LIMITATIONS**

The District reserves the right to contract with any entity responding to this RFQ. The District makes no representation that participation in the RFQ process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFQ. The awarding of the Project Architect contract(s), if at all, is at the sole discretion of the District.

**RESTRICTIONS ON LOBBYING AND CONTACTS**

From the period beginning on the date of the issuance of this RFQ and ending on the date of the award of the contract, no person or entity submitting in response to this RFQ, nor any officer, employee, representative, agent, or consultant representing such a person or entity, shall contact through any means or engage in any discussion regarding this RFQ, the evaluation or selection

process/or the award of the contract with any member of the District Board of Trustees, selection members, or any member of the interview committee. Any such contact shall be grounds for the disqualification of the Proposer.

## **PROJECT DESCRIPTION AND PROJECT BUDGET**

The Governing Board for the Gravenstein Union School District, in response to aging and inadequate facilities, commissioned a Master Plan in 2012. The current facilities are inadequate to offer the educational program of the District. To address these needs, the Board of Trustees placed a Bond Measure on the November 6, 2012, ballot to fund renovations to/replacement of existing facilities. In preparation for the Bond Measure, the District engaged an architect to evaluate the existing campuses and prepare a facilities assessment report. The District has established an escalated construction budget of roughly \$6 Million for the Project. A copy of the Facility Master Plan is attached to this RFQ.

As a starting point, the designs of the campuses shall be based on the guiding principles of Safety, Learning Environment, Fiscal Responsibility, Flexibility, Accessibility, Maintainability and Sustainability. The District supports the Collaborative for High Performance Schools (CHPS) Best Practices Standards. The Scope of Services provided by the Project Architect shall incorporate the CHPS criteria and best practices to the extent feasible.

## **PROJECT SCHEDULE**

The Board of Trustees has not yet approved a schedule for the Project; however the expectation is that the anticipated construction at Hillcrest Middle School would begin in summer 2014 and at Gravenstein Elementary School in summer 2015. The Project schedule might necessitate temporary classrooms on the campuses. The District has retained a consultant to determine eligibility for matching State funding and other sources of funding.

## **DESIGN TEAM QUALIFICATIONS**

The ideal team will have the following characteristics:

- Provide adequate staffing and resources to the projects. Maintain key staff through the duration of projects;
- Have local proximity in order to provide: (1) team working/review sessions during design; (2) ease of team coordination meetings; (3) minimal cost to attend district meetings; and (4) quick response to field issues.
- Have an established Quality Assurance/Quality Control program.
- Work collaboratively with District staff and District's Authorized Representative.
- Be flexible in nature; with positive, can-do attitudes. Be solution-oriented.
- Be organized, effective and efficient. Exercise professional prioritization skills.
- Work easily with modern amenities like scanners, web-based project management software and email, minimize communication via fax.
- Be proactive. Be prepared, working in advance of deadlines; consistently begin State and local agency coordination early.

- Be comfortable working within the state and local processes, maintaining communication with the project team via email and/or other rapid methods on important events and/or delivery of documentation required by the State and local agencies.
- Be comfortable making in-field decisions, problem solving with engineers or experts via telephone during critical times of construction.
- Be mindful and tenacious about maintaining project budgets and schedules, especially during construction. Make decisions that support District goals and objectives, relative to scope creep and especially contractor-initiated change orders.
- Communicate potential issues early and often. Provide thoughtful recommendations where applicable.

## **SCOPE OF SERVICES**

The selected Project Architect and its Design Team shall provide the scope of services that includes full architectural services through the design and construction phases of this Project that meets the project budget and schedule. The Design Team will organize meetings as required. The Design Team shall carry out the responsibilities briefly delineated in the scope of services set forth below. Such services shall be performed consistent with the highest standard of care for professionals performing similar scopes of services.

The Architectural Design Team shall, at a minimum, undertake the following responsibilities, and any additional responsibilities reasonably necessary and customarily provided by an Architectural Design Team conducting business in California:

### **Space and Functional Programming Phase**

- Collect and analyze data to complete a preliminary space program referencing the Education Specifications as well as meeting with District facilities staff, neighborhood organizations and District administrators for programming guidance.
- Develop Functional Program including refinement of space adjacencies and special equipment needs.

### **Develop District Standard Specifications**

- Participate in a series of workshops with the District's personnel to review and develop District specifications.

### **Architectural Design and Development of Construction Documents Phase**

- Review and validate existing conditions at the proposed sites as well as as-built documentation of the relevant existing facilities and utilize these in the preparation of the design documents.
- Develop alternate programming design concepts (at least three unique designs) and prepare programming design documents including cost estimate and basis of design.
- Develop and finalize the chosen schematic design, including cost estimate and basis of design.
- Prepare project CHPS report for each building and present to the District for approval before the commencement of the Design Development phase.

- Basic design services shall include at minimum the following disciplines: Civil, Structural, Architectural (including landscaping and hardware specialist), Mechanical-HVAC, Plumbing, Electrical, Telecommunications (voice, video and data) , Fire Protection, Security, Food Service, Acoustical, Independent Cost Estimator and all other upper division disciplines necessary for a complete facility.
- The architectural team will design to CHPS standards while designing buildings that require minimal maintenance and long term (50 year) durability.
- Coordinate efforts with environmental and other district hired consultants.
- Provide supporting documentation required for environmental process.
- Submit design documents to District, state and other governmental entities and/or utility providers as required for plan checks and approvals required under the Program Management Plan.
- Assist the District in Bid Phase by preparing addenda and other documents as required.
- Participate in estimating, scheduling, constructability review and planned maintenance meetings.
- Participate in community meetings.

#### Construction and Close-out Phase

- Work closely with the District's Program/Construction Manager throughout the construction of the facilities. Provide construction administration support through submittal review, respond to contractor request for information, review the work for conformance to quality standards and assist with construction completion and acceptance.
- Review contractor submitted change orders.
- Prepare record drawings from contractor as-built drawings. Provide CAD and PDF drawings of as-built drawings as part of closeout.
- Review contractor submitted closeout documents.
- Assist the District with the preparation of all required agency and governmental close out documentation.
- Obtain, prepare, coordinate and submit documents as required for DSA review and final certification of projects.

#### **SUBMITTAL FORMAT**

Firms responding to this RFQ for the Project must follow the format below. Material must be in 8-1/2 x 11 inch format and should be no longer than 30 pages excluding cover letter and tabs. The information presented under each heading should conform to the information requested.

Each submission package will be reviewed to determine its completeness prior to the actual evaluation. If a respondent does not respond to all categories requested, the respondent may be disqualified from further consideration. Submittals shall include divider tabs labeled with boldface headers below (e.g., the first tab would be entitled "Business Information," the second tab "Project Approach," etc.).



COVER LETTER—(maximum one page) shall have the name of the firm making the submission indicating your interest in working with the District. Include a brief description of why your firm is well suited for and can meet the District's needs.

The letter shall be signed by the individual authorized to bind the respondent to all statements and representations made therein and to represent the authenticity of the information presented.

**Tab 1 -BUSINESS INFORMATION**

- Company name
- Address;
- Telephone;
- Fax;
- Name and Email of main contact;
- Federal Tax I.D. Number;
- License or Registration Number;
- Business Structure (Corporation, Partnership, etc.);
- A brief description and history of the firm;
- Number of employees (licensed professionals, technical support);
- Number of current projects and present workload and where possible, projected workload for the period in question;
- Location of office where the bulk of services solicited will be performed;
- Provide similar information for proposed Sub-Consultants.

**Tab 2 - PROJECT APPROACH**

- Provide a statement demonstrating your firm's or team's ability to accomplish the scope of services in a comprehensive and thorough manner within the tentative schedule;
- Provide a brief written summary of the firm's philosophy related to the planning and design of the District's program;
- Describe your firm's approach to cost estimating including some history of cost estimates versus actual bid amount on three school projects awarded in the last five years. Include at least two examples of new construction projects;
- Describe your firm's approach to quality control/assurance procedures including coordination of design disciplines and state final certification, if any;
- Describe the approach to compliance with program requirements and conformance with Federal/State/Local applicable code requirements;
- Describe your firm's experience with construction cost reduction measures such as, but not limited to, value engineering in design and construction;
- Describe how your firm has incorporated the use of energy savings in design;
- Describe experience with sustainable design and CHPS in context of similar facilities.

**Tab 3 - RELEVANT K-12 PROJECT EXPERIENCE** –Provide information about prior services/designs prepared by your firm on at least five (5) prior K-12 educational projects.

Include the following information:

- Briefly state the significance of each relevant project your firm has worked on that you would like to be considered in this RFQ;
- Specify role of firm or individual if work was not exclusively by the firm (i.e., joint venture, association);
- Provide at least two (2) examples of projects that have been phased during school occupancy while conducting renovation and new construction;
- Provide a list of the following for each project:
  - project name and location
  - beginning and end dates of project (including construction)
  - square footage
  - main program elements
  - owner name with name of contact person
  - date of each project Notice of Completion and final certification
  - number of RFI's and Change Orders of each project
  - original budget, bid amount & final amount at close-out
  - owner reference, contact name and phone number
  - key individuals of the firm involved and their roles in the project
  - any sub-consultants that worked with the firm
- Reference all projects adhering to CHPS criteria your firm has worked on.

**Tab 4 - PROJECT TEAM SUMMARY**

- Identify key team members expected to work on this project, along with their resumes, including sub-consultants, and state their qualifications relevant to programming services and the scope of this project
- Include additional references for proposed team including:
  - Principal-in-Charge
  - Project Manager
  - Project Architect
  - Construction Administrator

**Tab 5- LITIGATION HISTORY**–Provide a comprehensive five-year summary of the firm's litigation, arbitration and negotiated/settled history with previous clients.

**SELECTION CRITERIA**

The most highly qualified firms designated from the RFQ process will provide a Proposal consisting of a detailed scope of services and proposed design fee and schedule. After submission of the Proposal, short-listed firms will participate in the interview process. After the interviews, the Selection Committee will identify the firm/team that can provide the greatest overall benefit to the District.

Should the District be unsuccessful in negotiations with the firm with the highest score, the firm with the second highest score will be extended the opportunity to negotiate a contract.

Each Proposal will be evaluated and ranked on the criteria set forth below. The criteria will be weighted as noted below in determining award.

Statement of Proposals Response (100 Points)

1. Relevant experience of the firm (30 points)
2. Project Approach (25 points)
3. Qualifications of proposed staff (25 points)
4. References & Litigation History (10 points)
5. Project understanding (10 points)

**SUBMISSION GUIDELINES**

Respondents to this RFQ should mail or deliver eight bound (8) copies and one (1) unbound copy of their proposals to:

Gravenstein Union School District  
3840 Twig Avenue  
Sebastopol, CA 95472  
Attn: Linda J. LaMarre, Superintendent

**ALL RESPONSES ARE DUE BY 4:00 P.M. ON FRIDAY, JANUARY 25, 2013.  
FAX OR EMAIL RESPONSES WILL NOT BE ACCEPTED.**

Each Submittal must conform and be responsive to the requirements set forth in this RFQ. The District reserves the right to waive any informalities or irregularities in received Submittals. Further, the District reserves the right to reject any and all Submittals and to negotiate contract terms with one or more respondent firms for one or more of the work items.

The District hereby notifies all respondents that it will affirmatively ensure that, in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit its response to this RFQ and no respondent will be discriminated against on the grounds of race, color, sex, age, ancestry, religion, marital status, national origin, medical condition or physical disability, or sexual orientation on consideration for the award.

The District reserves the right to change the dates on the schedule without prior notice.

**RFQ RESPONSE SCHEDULE SUMMARY:**

DATE	EVENT	TIME DEADLINE
------	-------	---------------

January 7, 2013	Release of RFQ	
January 25, 2013	Deadline for all submissions in response to RFQ	4:00 p.m.
February, 2013 Dates To be determined	Interviews of short-listed firms	Time To Be Determined
February, 2013 Date To be determined	Notification to selected Firm	

**THANK YOU FOR YOUR INTEREST IN THIS EXCITING PROJECT!**

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE BOARD OF TRUSTEES OF THE  
GRAVENSTEIN UNION SCHOOL DISTRICT CERTIFYING TO THE BOARD OF  
SUPERVISORS OF SONOMA COUNTY ALL PROCEEDINGS IN THE  
NOVEMBER 6, 2012 GENERAL OBLIGATION BOND ELECTION

**WHEREAS**, the Board of Trustees of the Gravenstein Union School District (the "District") of Sonoma County (the "County"), State of California, previously adopted its Resolution (the "Resolution") ordering an election for general obligation bonds (the "Bond Election") to be held on November 6, 2012; and

**WHEREAS**, the Resolution was duly delivered to the Registrar of Voters for the County; and

**WHEREAS**, the Resolution was duly delivered to the Clerk of the Board of Supervisors of the County; and

**WHEREAS**, notice of the Bond Election was duly given; and

**WHEREAS**, on November 6, 2012, the Bond Election was duly held and conducted for the purpose of voting on the proposition of issuing bonds of the District in the amount of \$6 million, known as Measure M (the "Bond Measure"); and

**WHEREAS**, the Board of Trustees of the District has received the Canvass and Statement of results of the election from the County ("Certificate of Election Results"); and

**WHEREAS**, it appears from the Certificate of Election Results that more than 55% of the votes cast on the proposition were in favor of issuing the aforementioned bonds.

**NOW, THEREFORE, THE BOARD OF TRUSTEES THE GRAVENSTEIN UNION SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:**

**Section 1.** That entry be made upon the minutes of this meeting that the Bond Measure has been approved by more than 55% of the votes cast at the Bond Election.

**Section 2.** That it is hereby certified to the Board of Supervisors of Sonoma County that all proceedings of the District in connection with the November 6, 2012 Bond Election have been accomplished according to law.

**Section 3.** That the Clerk of the Board is hereby requested to deliver a copy of this Resolution to the County Superintendent of Schools with a request that, pursuant to Education Code Section 15274, the County Superintendent deliver a copy of the Resolution and Certificate of Election Results attached hereto as Exhibit A to the Clerk of the Board Supervisors of the County.

**Section 4. Effective Date.** This resolution shall take effect on and after its adoption.

\* \* \* \* \*

The foregoing Resolution was adopted by the Governing Board of the Gravenstein Union School District of Sonoma County, being the Board authorized by law to make the designations therein contained by the following vote, on \_\_\_\_\_, 2012.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

---

Clerk of the Board of Trustees  
of the Gravenstein Union School District

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE  
GRAVENSTEIN UNION SCHOOL DISTRICT ADOPTING BYLAWS GOVERNING  
CITIZENS OVERSIGHT COMMITTEE**

**WHEREAS**, Gravenstein Union School District (the "District") was successful at the election conducted on November 6, 2012 (the "Bond Election") in obtaining authorization from at least 55% of District voters to issue up to \$6.0 million aggregate principal amount of general obligation bonds (the "Bonds") for the purpose of financing the specific school facilities projects set forth in the measure approved by the voters (the "Measure M"); and

**WHEREAS**, the election was conducted under the provisions of Proposition 39, the Smaller Classes, Safer Schools and Financial Accountability Act, approved by California voters on November 7, 2000 ("Proposition 39"), and pursuant to Proposition 39, Measure M and, specifically Section 15278 of the Education Code, the Board of Trustees of the District is obligated to establish a citizen oversight committee to satisfy the accountability requirements of Proposition 39;

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE GRAVENSTEIN UNION SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:**

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** The Bylaws in the form on file with the Superintendent are hereby approved and adopted.

**Section 3.** This resolution shall take effect on and after its adoption.

\*\*\*\*\*

The foregoing Resolution was adopted by the Board of Trustees of the Gravenstein Union School District of Sonoma County, California, being the Board authorized by law to make the designations therein contained by the following vote, on \_\_\_\_\_, 2012.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Trustees  
of the Gravenstein Union School District

## GRAVENSTEIN UNION SCHOOL DISTRICT CITIZENS' BOND OVERSIGHT COMMITTEE

### BYLAWS

**Section 1. Committee Established.** The Gravenstein Union School District (the "District") was successful at the election conducted on November 6, 2012 (the "Bond Election") in obtaining authorization from at least 55% of District voters to issue up to \$6 million aggregate principal amount of general obligation bonds (the "Bonds") for the purpose of financing the specific school facilities projects set forth in Measure M approved by the voters (the "Measure").

The election was conducted under the provisions of Proposition 39, the Smaller Classes, Safer Schools and Financial Accountability Act, approved by California voters on November 7, 2000 ("Proposition 39"). Pursuant to Proposition 39, the Measure and, specifically Section 15278 of the Education Code, the Board of Trustees of the District is obligated to establish the Oversight Committee to satisfy the accountability requirements of Proposition 39.

The Board of Trustees of the District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee") which shall have the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity from the District.

**Section 2. Purposes.** The purpose of the Committee is to inform the public regarding the expenditure of bond proceeds, as required by Proposition 39. These Bylaws are specifically made subject to the applicable provisions of Proposition 39 as to the duties and rights of the Committee.

As used herein, "bond proceeds" means the proceeds of Bonds issued pursuant to the voter-approved Measure. The Committee shall confine itself specifically to bond proceeds generated under the ballot measure. All monies generated from other sources fall outside of the scope of Committee review.

**Section 3. Duties of the Committee.** To carry out its stated purposes, the Committee shall perform the following duties:

3.1 **Inform the Public.** The Committee shall inform the public concerning the District's expenditure of bond proceeds to ensure that bond proceeds are expended only for the purposes set forth in the Measure.

3.2 **Review of Bond Expenditures.** The Committee shall establish a regular meeting schedule which shall provide for meetings to be conducted at least quarterly. At such meetings, the Committee shall review expenditure reports provided by the District, and, if available, the annual performance audit and financial audit prepared by the District in accordance with Proposition 39, to ensure that (a) bond proceeds are expended only pursuant to Proposition 39 and for the purposes set forth in the Measure; and (b) no bond proceeds are used for any teacher or administrative salaries or other operating expenses.

3.3 **Annual Report of Committee.** Pursuant to California Education Code Section 15280(b), the Committee shall issue a written report on the results of its activities at least once a year. Such report shall be presented to the District Board, in public session, and shall include the following:



- (a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and
- (b) A summary of the Committee's proceedings and activities for the preceding year.

The Committee may issue additional written reports as it so determines in order to effectuate its duty to inform the public on the expenditure of bond proceeds.

***All written reports shall be a matter of public record and shall be provided to the District and made available on the District's internet website.***

3.4 **Duties Exclusively Reserved to District.** The District Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (i) Approval of construction contracts,
- (ii) Approval of construction change orders,
- (iii) Appropriation of construction funds,
- (iv) Handling of all legal matters,
- (v) Approval of construction plans and schedules,
- (vi) Approval of Deferred Maintenance Plan, and
- (vii) Approval of the sale of bonds.

3.5 **Limited Role of Committee.** Pursuant to Proposition 39, the Committee is charged with overseeing the expenditure of bond proceeds and reviewing and reporting on expenditures after they have been made. The District has not charged the Committee with responsibility for, and the Committee shall not have oversight with respect to matters beyond the scope of reviewing and reporting on the expenditure bond proceeds. Matters outside the scope of review of the Committee include but are not limited to:

- (a) Projects financed without bond proceeds, including projected financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property.
- (b) The establishment of priorities and order of construction for bond projects, which shall be made by the District Board in its sole discretion.
- (c) The selection of architects, engineers, soil engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the projects, which

shall be based on District criteria established by the District Board in its sole discretion.

- (d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) shall be made by the District Board in its sole discretion; however, the District shall report to the Committee on any cost saving techniques considered or adopted by the Board.
- (e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee shall be made by the District Board.
- (f) A plan for publicizing the activities of the Committee, which shall, however, at a minimum take the form of making all reports, notices, agendas and minutes available on the District's internet website, shall be determined by the District Board.
- (g) The amendment or modification of the Bylaws for the Committee as provided herein, subject to the legal requirements of Proposition 39, shall be made only by the District Board.
- (h) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its functions under Proposition 39, shall be the responsibility of the District Board.

**Section 4. Authorized Activities of Committee.**

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the activities authorized pursuant to Proposition 39 and Education Code Section 15278(c):

- (a) Receiving and reviewing copies of the District's annual, independent performance audit required by Proposition 39.
- (b) Receiving and reviewing copies of the annual, independent financial audit required by Proposition 39.
- (c) Inspecting school facilities and grounds to ensure that bond proceeds are expended in compliance with the requirements of Proposition 39 and the Measure.
- (d) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the District, if any, including any reports required by Section 17584.1 of the Education Code.
- (e) Reviewing efforts by the District to maximize bond proceeds by implementing cost-saving measures.

## **Section 5. Membership.**

5.1 **Number.** The Committee shall consist of a minimum of 7 members appointed by the District Board as provided in Section 5.5, and based on criteria established by Proposition 39, to wit:

- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizen's organization.
- One (1) member active in a bona-fide taxpayers association.
- One (1) member shall be a parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization or school site council.
- Two (2) members of the community at-large appointed by the Board.

## 5.2 **Qualification Standards.**

- (a) To be a qualified member of the Committee, candidates must be at least 18 years of age, in accordance with Government Code Section 1020. Preference will be given to those who reside within the District's geographic boundary.
- (b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 **Ethics: Conflicts of Interest.** By accepting appointment to the Committee, each member agrees to comply with Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and to complete and file with the District Form 700 (Statement of Economic Interests of the Fair Political Practices Commission) as required by all "designated employees" of the District. Additionally, each member shall comply with and acknowledge the Committee Ethics Policy attached as "Appendix B" to these Bylaws.

5.4 **Term.** Each member shall serve a term of two (2) years commencing the first day of the month in which the District confirmed its appointment of members; however, two members shall serve an initial term of only one (1) year, determined by lot at the first meeting of the Committee. Following the initial term of a member, the member may serve two additional consecutive terms.

5.5 **Appointment.** Members of the Committee shall be appointed by the District Board through the following process: (a) appropriate local groups will be solicited for applications; (b) the Superintendent or his designee will review the applications; (c) the Superintendent or his designee will make recommendations to the Board; and (d) the District Board will confirm its selection and appointment by resolution.

The District will document its best efforts to appoint a Committee consisting of members meeting the criteria set forth in Section 5.1. In the event that the District is unable to identify a member meeting one of the criteria following a good faith effort to fill such position, then the District Board shall appoint a member of the community at large to fill that position. Upon the next vacancy which occurs on the Committee, the District shall again undertake its best efforts to result in a Committee with members meeting each of the criteria set forth in Section 5.1.

5.6 Removal; Vacancy. The Board may remove any Committee member for cause, which includes a failure to attend two (2) consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District. (b) Individual members of the Committee retain the right to address the Board as an individual.

#### **Section 6. Meetings of the Committee.**

6.1 Regular Meetings. The Committee is required to meet quarterly, with one meeting designated as the annual organizational meeting.

6.2 Location. All meetings shall be held within the District.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business except adjournment.

**Section 7. Officers.** The Superintendent shall appoint the initial Chair for the purpose of commencing the initial meeting of the Committee. At the initial meeting, the Committee shall elect a Chair, and a Vice-Chair who shall act as Chair only when the Chair is absent. In addition, the Committee shall elect a Secretary who shall take minutes of each meeting. Such positions shall be for a term of two (2) years, at which time the Committee shall elect a new Chair, Vice-Chair and Secretary.

#### **Section 8. District Support.**

8.1 The District shall provide to the Committee necessary technical and administrative assistance in furtherance of its purposes and sufficient resources to publicize the conclusions of the Committee. Such support shall include:

- (a) preparing and posting public notices as required by the *Ralph M. Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

- (b) providing a meeting room, including any necessary audio/visual equipment;
- (c) coordinating with the Committee Chair on the preparation and posting of an agenda for each meeting and providing copies of any materials to be reviewed at such meeting, such as agendas and/or reports; and
- (d) receiving all agendas, minutes and reports of the Committee and providing public access to such records on the District's internet website.

8.2 At least one member of District staff shall attend all Committee proceedings in order to report on the status of projects and the expenditures of bond proceeds and respond to questions the Committee may have on the projects and expenditures.

8.3 No bond proceeds shall be used to provide District support to the Committee.

8.4 The District shall provide to the Committee for use at its meetings, at least 72 hours in advance of such meetings, expenditure reports with respect to bond proceeds which set forth the proposed project budget, actual to budget expenditures, with itemization of such actual expenditures.

**Section 9. Amendment of Bylaws.** Any amendment to these Bylaws shall be approved by a two-thirds vote of all of the members of District Board.

**Section 10. Termination.** The Committee shall automatically terminate and disband at the earlier of the date when (a) all bond proceeds are spent, or (b) all projects funded by bond proceeds are completed.

**APPENDIX A**

**CITIZENS' BOND OVERSIGHT COMMITTEE  
ETHICS POLICY STATEMENT**

This following Ethics Policy Statement provides general guidelines for Committee members to perform their roles. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

**POLICY**

• **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract to be funded by bond proceeds or (2) any construction project which will benefit the committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.

• **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

• **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Gravenstein Union School District;

• **COMMITMENT TO DISTRICT.** A Committee member shall place the interest of the District above any personal or business interest of the member.

The undersigned acknowledges he or she has received a copy of this Ethics Policy Statement, understands the provisions of this policy and agrees to adhere to its requirements.

---

Date

---

Member, Oversight Committee

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF TRUSTEES OF  
GRAVENSTEIN UNION SCHOOL DISTRICT CONFIRMING APPOINTMENT  
OF CITIZENS OVERSIGHT COMMITTEE MEMBERS**

**WHEREAS**, the Board of Trustees (the "Board") of the Gravenstein Union School District (the "District") has previously adopted its Bylaws governing a Citizens' Bond Oversight Committee (the "COC") with respect to the District's general obligation bonds which were approved at an election held on November 6, 2012; and

**WHEREAS**, the District has solicited applications from members of the public for the purposes of appointing members to the COC, and such applications have been heretofore reviewed, and the Board desires at this time to appoint the initial members of the COC; and

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE GRAVENSTEIN SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:**

**Section 1.** That the following individuals are hereby appointed as initial members of the COC:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7,

**Section 2.** This resolution shall take effect on and after its adoption.

\*\*\*\*\*

The foregoing Resolution was adopted by the Board of Trustees of the Gravenstein Union School District of Sonoma County, California, being the Board authorized by law to make the designations therein contained by the following vote, on \_\_\_\_\_, 2012.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

---

Clerk of the Board of Trustees  
of the Gravenstein Union School District



**Administrative Regulation**

**Business and Noninstructional Operations**

AR 3541.1

**Transportation for School-Related Trips**

\*\*\*Note: The following optional regulation should be revised to reflect district practice. \*\*\*

\*\*\*Note: Education Code 35330 authorizes the district to provide transportation to and from places in the state, any other state, the District of Columbia, or a foreign country; however, districts will not receive state transportation allowances for field trips or excursions that have an out-of-state destination. Requirements for trip approval and/or any Board limitations on travel destinations are addressed at BP/AR 6153 - School-Sponsored Trips. \*\*\*

The district may provide transportation for students, employees, and other individuals for field trips and excursions approved according to Board policy and administrative regulations.

(cf. 3541 - Transportation Routes and Services)  
(cf. 6153 - School-Sponsored Trips)

The Superintendent or designee shall determine the most appropriate and cost-effective mode of transportation for each approved trip.

(cf. 3312.2 - Educational Travel Program Contracts)  
(cf. 3540 - Transportation)

When district transportation is provided, students may be released from using district transportation only with the advance written permission of their parent/guardian.

School-related organizations requesting transportation shall be fully responsible for the costs of their trips unless funding has been approved by the Governing Board.

(cf. 1230 - School-Connected Organizations)

The Superintendent or designee shall ensure that the district has sufficient liability insurance when field trips or excursions involve either transportation by district vehicles or travel to and from a foreign country. When a trip to a foreign country is authorized, liability insurance shall be secured from a carrier licensed to transact insurance business in that country. (Education Code 35330)

(cf. 3530 - Risk Management/Insurance)

**Transportation by Private Vehicle**

\*\*\*Note: Options 1 and 2 below relate to the use of private vehicles for field trip transportation. Districts are advised to consult legal counsel regarding potential liability when private vehicles are used.\*\*\*

OPTION 1:

Private vehicles shall not be used to provide transportation for school-related trips.

OPTION 2:

\*\*\*Note: The following section may be revised to reflect district practice, including changing the age requirement for drivers, allowing only school employees and parents/guardians to serve as drivers, increasing the amount of liability insurance required beyond the legal minimum, and/or adding other qualifications for drivers. According to the California Department of Motor Vehicles, nonresidents on active military duty in California must have either a California driver's license or a valid driver's license from their state of residence. Districts may contact the DMV to determine if a driver has a record of reckless driving. Sample driver registration and instruction forms are provided in the accompanying exhibits. \*\*\*

\*\*\*Note: The remainder of this section is for use by districts that select Option 2.\*\*\*

The Superintendent or designee may authorize the transportation of students by private vehicle when the vehicle is driven by an adult age 21 or older who possesses a valid California driver's license or a valid license from his/her state of residence if he/she is a nonresident on active military duty in California. To be approved, a driver shall have a good driving record and possess at least the minimum insurance required by law. Any person providing transportation in a private vehicle shall register with the district for such purposes.

(cf. 1240 - Volunteer Assistance)

Drivers shall receive safety and emergency instructions which shall be kept in their vehicle.

All student passengers shall submit permission slips signed by their parent/guardian. Teachers shall ensure that each driver has a copy of the permission slip for each student riding in his/her vehicle.

The number of passengers, including the driver, shall not exceed the capacity for which the vehicle was designed. Motor trucks may not transport more persons than can safely sit in the passenger compartment. The driver shall also ensure that the manufacturer's recommendations for his/her vehicle are followed regarding the seating of children in seats equipped with airbags.

#### Passenger Restraint Systems

\*\*\*Note: The following section is for use only by districts that selected Option 2 above. AB 2139 (Ch. 420, Statutes of 2004) amended Vehicle Code 27360 to require that children under age 6 or under 60 pounds be secured in a rear seat.\*\*\*

All drivers shall wear safety belts in accordance with law. In addition, drivers shall ensure that: (Vehicle Code 27315, 27360, 27360.5, 27363)

1. A child who is under age 6 or under 60 pounds, unless exempted in accordance with Vehicle Code 27360 or 27363, is properly secured in a rear seat in an appropriate child passenger restraint system meeting federal safety standards
2. All other children are properly secured in either a child passenger restraint system or safety belt
3. All other passengers wear seat belts

Legal Reference:

EDUCATION CODE

35330 Excursions and field trips

35332 Transportation by air

39830 School bus

39830.1 School pupil activity bus

39860 Transportation to special activities by district

44808 Liability when students not on school property

VEHICLE CODE

27315 Mandatory use of seat belts in private passenger vehicles

27360-27360.5 Child passenger restraint systems

27363 Child passenger restraint systems, exemptions

Management Resources:

WEB SITES

California Department of Motor Vehicles: <http://www.dmv.ca.gov>

California Highway Patrol: <http://www.chp.ca.gov>

California Office of Traffic Safety: <http://www.ots.ca.gov>

National Highway Traffic Safety Administration: <http://www.nhtsa.dot.gov>

National Transportation Safety Board: <http://www.nts.gov>

(3/02 7/03) 11/04

**Adopted: 10-13-04**

**GRAVENSTEIN UNION SCHOOL DISTRICT  
Sebastopol, California**

**GRAVENSTEIN UNION SCHOOL DISTRICT**  
**VOLUNTARY DRIVER FORM - VERIFICATION OF INSURANCE**

Your willingness to use your own vehicle to transport students on a field trip is very commendable and appreciated. The District feels responsible for determining the following:

1. Do you have a valid driver's license?  Yes  No License Number: \_\_\_\_\_  
 2. Have you been convicted of reckless driving, or driving under the influence of drugs or alcohol within the past five years?  
 Yes  No (if yes, the district policy prohibits you serving as a driver).

Name of Person(s) covered by Insurance \_\_\_\_\_  
 Insurance Carrier \_\_\_\_\_  
 Policy Number \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
 (Note: This form will be void after expiration date)

Amount of insurance coverage:

Bodily Injury: \_\_\_\_\_ Property Damage: \_\_\_\_\_ Medical: \_\_\_\_\_

Volunteers driving students on any activity away from school **must show evidence** of the following coverage:

1. Property Damage \$25,000
2. Bodily Injury \$100,000 - \$300,000
3. Medical \$5,000

**DRIVER INFORMATION:**

YES NO  
 \_\_\_\_\_ Is 21 years of age?  
 \_\_\_\_\_ Is properly licensed? License number \_\_\_\_\_  
 \_\_\_\_\_ Has ever been convicted of a major violation?

**VEHICLE INFORMATION**

Make: \_\_\_\_\_ Year: \_\_\_\_\_ Car license number \_\_\_\_\_

How many passenger seats: \_\_\_\_\_ Number of seat belts: \_\_\_\_\_

**VEHICLE SAFETY**

As a driver of a car transporting students, you are responsible for providing a safe vehicle including the following:

- Minimum tread on tires (not bald or worn)
- Working lights, turn signals, mirrors
- Normal mechanical systems, including steering and brakes
- Seatbelts for all passengers
- Appropriate spare tire, highway flares
- Normal operating engine
- Normal interior and exterior

If your vehicle does not meet District expectations, it cannot be used for transporting students.

**DRIVER CERTIFICATION:**

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CURRENT TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE INVESTIGATION OF ALL STATEMENTS HEREIN RECORDED.

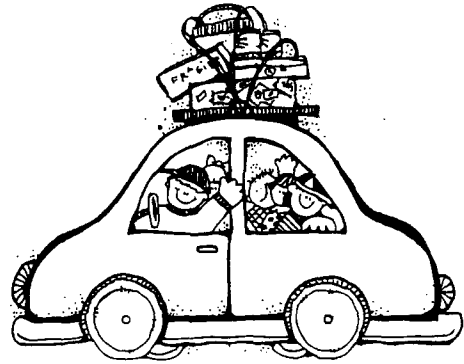
Driver's Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

YES NO  
 \_\_\_\_\_ This driver is approved to drive on school field trips  
 \_\_\_\_\_ This car is approved to transport students on field trips.

Superintendent's Signature \_\_\_\_\_ Date \_\_\_\_\_

# field trip DRIVER RULES



1. I am at least 21 years old and have been cleared by the office to drive on field trips. All paper work submitted was accurate and up-to-date.
2. I will follow all traffic laws, including use of cell phone, while transporting children to and from the field trip.
3. My car is well maintained and in good running order.
4. I have an appropriate amount of gas in the tank and know where I am going before leaving campus.
5. I will ensure that every student is properly seat-belted in my car and that the doors are locked.
6. I will instruct student passengers to use inside voices while riding in the car.
7. I will not detour from the planned route, including stopping at a store on the way to the destination or on the way back to school. I understand that no unapproved stops are allowed.
8. No DVD's will be shown while driving to and from the field trip.
9. I understand that I am responsible for the children in my car during the field trip and will follow the teacher's example when chaperoning.
10. I will transport the same children both to and from the field trip unless instructed to do otherwise by the principal or teacher.
11. I will not leave with the students until the teacher or principal has accounted for the students and has instructed me to do so.
12. I will not leave any of the students I am driving/chaperoning alone without being supervised by another approved parent or the teacher/principal.
13. I will not give any child, other than my own, food or gifts of any kind without prior consent from the teacher/principal.
14. I have not, nor will take, any medication or alcohol that could impair my driving ability during the course of the field trip.

15. *The driver or any other person shall not smoke or have*  
I agree to follow all of the rules as stated above. I also understand that if I fail to do so, I *in his/her*  
may not be allowed to drive on future field trips for the district. *possession*

Print Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

*(Currently utilized by most teachers but not part of the BPEAR and not board approved)*

# **CSBA Sample**

## **Administrative Regulation**

### **Transportation For School-Related Trips**

AR 3541:1

#### **Business and Noninstructional Operations**

\*\*\*Note: The following optional administrative regulation should be revised to reflect district practice. \*\*\*

\*\*\*Note: Education Code 35330 authorizes the district to provide transportation to and from places in the state, any other state, the District of Columbia, or a foreign country; however, districts will not receive state transportation allowances for field trips or excursions to out-of-state destinations. Requirements for trip approval and/or any Governing Board limitations on travel destinations are addressed at BP/AR 6153 - School-Sponsored Trips. \*\*\*

The district may provide transportation for students, employees, and other individuals for field trips and other school-related trips approved according to Board policy and administrative regulation.

(cf. 3312.2 - Educational Travel Program Contracts)  
(cf. 3540 - Transportation)  
(cf. 3541 - Transportation Routes and Services)  
(cf. 6153 - School-Sponsored Trips)

\*\*\*Note: Pursuant to Education Code 35330, the district may provide or contract for transportation for school-related trips. Public Utilities Code 5384.2 clarifies that school districts and schools are not liable for transportation services provided by a charter-party carrier, as defined in Vehicle Code 545, for which the district has not contracted, arranged, or otherwise provided. Examples of charter-party carriers include stretch Hummers or sport utility vehicles transporting up to 25 students to prom. \*\*\*

The Superintendent or designee shall determine the most appropriate and cost-effective mode of transportation for each approved trip. He/she may authorize the use of district vehicles, contract to provide transportation, or arrange transportation by the use of other vehicles.

\*\*\*Note: Pursuant to Education Code 35330, the district must secure sufficient liability insurance when field trips or excursions involve transportation by district vehicles. If travel is to and from a foreign country, liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country. \*\*\*

The Superintendent or designee shall ensure that the district or contractor has sufficient

liability insurance for transportation on school-related trips.

(cf. 3530 - Risk Management/Insurance)

When district transportation is provided, students may be released from using district transportation only with the advance written permission of their parents/guardians.

School-related organizations requesting transportation shall be fully responsible for the costs of their trips unless funding has been approved by the Governing Board.

(cf. 1230 - School-Connected Organizations)

#### Transportation by Private Vehicle

\*\*\*Note: Options 1 and 2 below relate to the use of private vehicles for field trip transportation. Districts are advised to consult legal counsel regarding potential liability when private vehicles are used. \*\*\*

~~OPTION 1: (No private vehicles)~~

~~Private vehicles shall not be used to provide transportation for school-related trips.~~

\*\*\*Note: The remainder of this section is for use by districts that allow private vehicles to be used to provide transportation for school-related trips and may be revised to reflect district practice, including changing the age requirement for drivers, allowing only school employees and parents/guardians to serve as drivers, and/or increasing the amount of liability insurance required beyond the legal minimum. \*\*\*

\*\*\*Note: According to the California Department of Motor Vehicles (DMV), nonresidents on active military duty in California must have either a California driver's license or a valid driver's license from their state of residence. Vehicle Code 12814.6 provides that any person under age 18, during the first 12 months of issuance of a provisional license, cannot transport individuals under age 20. Districts may contact the DMV to determine if a driver has a record of reckless driving. Sample driver registration and instruction forms are provided in the accompanying exhibits. \*\*\*

OPTION 2: (Private vehicles allowed)

The Superintendent or designee may authorize the transportation of students by private vehicle when the vehicle is driven by an adult age 21 or older who possesses a valid California driver's license or, if he/she is a nonresident on active military duty in California, possesses a valid license from his/her state of residence. To be approved, a driver shall have a good driving record and possess at least the minimum insurance required by law. Any person providing transportation to district students in a private vehicle shall register with the district for such purposes.

(cf. 1240 - Volunteer Assistance)

Drivers shall receive safety and emergency instructions which shall be kept in their vehicle.

All student passengers shall submit permission slips signed by their parents/guardians. Teachers shall ensure that each driver has a copy of the permission slip for each student riding in his/her vehicle.

The number of passengers, including the driver, shall not exceed the capacity for which the vehicle was designed. Trucks may not transport more persons than can safely sit in the passenger compartment. The driver shall ensure that the manufacturer's recommendations for his/her vehicle are followed regarding the seating of children in seats equipped with airbags.

The driver or any other person shall not smoke or have in his/her immediate possession a lighted pipe, cigar, or cigarette containing tobacco or any other plant when there is a minor in the motor vehicle, whether the motor vehicle is in motion or at rest. (Health and Safety Code 118948)

#### Passenger Restraint Systems

\*\*\*Note: The following section is for use only by districts that selected Option 2 above, thereby allowing the use of private vehicles as transportation for school-related trips. \*\*\*

All drivers shall wear safety belts and shall ensure that all passengers are properly secured in seat belts or child passenger restraint systems in accordance with law. (Vehicle Code 27315, 27360, 27360.5, 27363)

\*\*\*Note: SB 929 (Ch. 474, Statutes of 2011) amended Vehicle Code 27360 and 27363 to revise the age and height requirements for children to be secured in a rear seat in an appropriate child passenger restraint system. \*\*\*

A child who is under age 8 years shall be properly secured in a rear seat in an appropriate child passenger restraint system meeting federal safety standards, except under any of the following circumstances: (Vehicle Code 27360, 27363)

1. The child is four feet nine inches or taller, in which case a safety belt may be used.
2. Use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size and an appropriate special needs child passenger restraint system is not available.
3. There is no rear seat, the rear seats are side-facing jump seats or rear-facing seats, the child passenger restraint system cannot be installed properly in the rear seat, all rear



seats are already occupied by children under age 8 years, or medical reasons necessitate that the child not ride in the rear seat.

4. The child is otherwise exempted by law.

Legal Reference:

EDUCATION CODE

35330 Excursions and field trips

35332 Transportation by air

39830 School bus

39830.1 School pupil activity bus

39860 Transportation to special activities by district

44808 Liability when students not on school property

HEALTH AND SAFETY CODE

118947-118949 Prohibition against smoking in motor vehicle with minor

PUBLIC UTILITIES CODE

5384.2 District not liable for charter-party carrier

VEHICLE CODE

545 School bus, definition

12814.6 Limitations of provisional driver's license

27315 Mandatory use of seat belts in private passenger vehicles

27360-27360.5 Child passenger restraint systems

27363 Child passenger restraint systems, exemptions

Management Resources:

WEB SITES

California Department of Motor Vehicles: <http://www.dmv.ca.gov>

California Highway Patrol: <http://www.chp.ca.gov>

California Office of Traffic Safety: <http://www.ots.ca.gov>

National Highway Traffic Safety Administration: <http://www.nhtsa.dot.gov>

(11/04 11/07) 11/11

# CSBA Sample

## Exhibit

### Transportation For School-Related Trips

E 3541.1

#### Business and Noninstructional Operations

Exhibit 1

#### SCHOOL DRIVER REGISTRATION FORM

##### DRIVER INFORMATION

Driver (circle one): ~~Employee~~ Parent/Guardian Volunteer

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Cell Phone: (\_\_\_\_) \_\_\_\_\_

Driver's License No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

##### VEHICLE INFORMATION

Name of Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Make: \_\_\_\_\_ Year: \_\_\_\_\_ License Plate No.: \_\_\_\_\_

Registration Expiration: \_\_\_\_\_ Seating Capacity: \_\_\_\_\_

##### INSURANCE INFORMATION

Insurance Company: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_

Policy No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Liability Limits of Policy: \_\_\_\_\_

##### DRIVER STATEMENT

I certify that I have not been convicted of reckless driving or driving under the influence of drugs or alcohol within the past five years and that the information given above is true and correct. I understand that if an accident occurs, my insurance coverage shall bear primary responsibility for any losses or claims for damages.

I certify that I have received and will abide by the driver instructions provided by the district.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

(3/02) 11/07

-----  
Exhibit 2

### DRIVER INSTRUCTIONS

When using your vehicle to transport students on field trips or other school activity trips:

1. Be sure that you have registered with the district for such purposes and have a valid driver's license and current liability insurance at or above the minimum amount required by law for each occurrence.
2. Check the safety of your vehicle: tires, brakes, lights, horn, suspension, etc.
3. Carry only the number of passengers for which your vehicle was designed. If you have a pickup truck, carry only as many as can safely sit in the passenger compartment.
4. Require each passenger to use an appropriate child passenger restraint system (child car seat or booster seat) or safety belt in accordance with law.

\*\*\*Note: SB 7 (Ch. 425, Statutes of 2007) added Health and Safety Code 118947-118949 to make it unlawful for a person to smoke in a motor vehicle in which there is a minor; see accompanying administrative regulation.\*\*\*

5. Do not smoke a pipe, cigar, or cigarette while there are minors in the vehicle, as required by law.
6. Obey all traffic laws.
7. Take the most direct route to the destination or event without unnecessary stops.

In case of emergency, keep all students together and call 911 and the district office.

(3/02) 11/07

Current BP

## Board Policy

BP 5144.1  
Students

### Suspension And Expulsion/Due Process

The Governing Board has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

(cf. 5144 - Discipline)

\*\*\*Note: The following optional paragraph excludes suspended or expelled students' participation in extracurricular activities.\*\*\*

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

(cf. 6145 - Extracurricular and Cocurricular Activities)

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion shall be used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to self or others.

The grounds for suspension and expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be those specified in law and/or administrative regulation.

### Zero Tolerance

\*\*\*Note: Although the term "zero tolerance" does not appear in law, the federal Gun-Free Schools Act (20 USC 7151) requires a district to expel for one year a student who brings a firearm to school. This requirement has commonly been labeled as "zero tolerance." Education Code 48915(c) also requires the mandatory suspension and recommendation for expulsion of students who possess, sell or furnish a firearm, brandish a knife, sell a controlled substance, commit or attempt to commit a sexual assault or sexual battery, or possess an explosive. \*\*\*

\*\*\*Note: The extent to which a district can develop policies mandating a recommendation for expulsion beyond those specified in the Education Code is unclear. In T.H. v. San Diego Unified School District, a court upheld a district's zero tolerance policy that went beyond the requirements for "mandatory recommendation" for expulsion in Education Code 48915(c) because the policy did not interfere with a student's statutory right for due process or conflict with the Education Code. \*\*\*

\*\*\*Note: The following optional section provides general language in support of zero tolerance as authorized by California law. Districts that wish to expand the policy to include zero tolerance for offenses beyond those in law should modify the following paragraph to specify grade levels to which the zero tolerance policy applies and the specific offenses which result in suspension and expulsion, beyond those for which the law requires suspension and expulsion. It is also recommended that such districts notify parents/guardians and students about the district's policy. Such districts should also consult legal counsel as appropriate.\*\*\*

The Board supports a zero tolerance approach to serious offenses in accordance with state and federal law. This approach makes the removal of potentially dangerous students from the classroom a top priority and ensures the standardized treatment of all students. Staff shall immediately report to the Superintendent or designee any incidence of offenses specified in law, Board policy, and administrative regulation as cause for suspension or expulsion.

#### Student Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and/or law. (Education Code 48911, 48915, 48915.5)

(cf. 5119 - Students Expelled from Other Districts)

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

#### Supervised Suspension Classroom

\*\*\*Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger or who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that if the number of students suspended during the past year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another program of on-campus progressive discipline. \*\*\*

\*\*\*Note: The following optional section is for use by districts implementing a supervised suspension classroom program; such districts may continue to claim apportionments for students so assigned, provided they meet specific criteria which are set forth in the accompanying administrative regulation.\*\*\*

The Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours when they are off campus and may fall behind in the coursework. The Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.

The Superintendent or designee shall establish a supervised classroom suspension program which meets the requirements of law for students suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, who pose no imminent danger or threat at school, and for whom an expulsion action has not been initiated.

\*\*\*Note: Pursuant to Education Code 48911.2, schools may implement, in place of or in addition to the supervised suspension classroom program of Education Code 48911.1, programs involving progressive discipline using conferences, detention, student success teams, and/or referral to school support service staff.\*\*\*

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

#### Required Parental Attendance

\*\*\*Note: AB 2855 (Ch. 895, Statutes of 2004) amended Education Code 48900.1 to no longer mandate the Board to adopt a policy on required parental attendance. However, Education Code 48900.1, as amended, provides that if the Board chooses to adopt such a policy, it must contain the components specified in the paragraphs below.\*\*\*

\*\*\*Note: The following section is optional and should be deleted by districts that do not require parental attendance.\*\*\*

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is suspended from class by a teacher because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities, or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a

school day in the class from which the student was suspended. (Education Code 48900.1)

Before requiring parental attendance, the teacher shall make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is pursuant to law. (Education Code 48900.1)

\*\*\*Note: Education Code 48900.1 requires that the notice specify when the parent/guardian must attend the class. The attendance may be either on the day the student is scheduled to return or within a "reasonable period of time," as specified in the district's policy. The following paragraph establishes a one-week deadline for the parent/guardian's attendance. This deadline may be modified to reflect district practice.\*\*\*

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

\*\*\*Note: Pursuant to Education Code 48900.1, the Board's policy must include procedures for contacting parents/guardians who do not respond to the request to attend and also take into account reasonable factors that may prevent the parent/guardian's compliance with a notice to attend. The following paragraph should be revised to reflect district practice.\*\*\*

The principal or designee shall contact a parent/guardian who does not respond to the request to attend school. The Board recognizes that parent/guardian compliance with this policy may be delayed, modified, or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

## Decision Not to Enforce Expulsion Order

\*\*\*Note: Pursuant to Education Code 48917, a Board may decide to suspend the enforcement of an order for expulsion if the student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that a Board may suspend the enforcement of an expulsion, even in those cases where the student has committed an offense for which expulsion must be ordered by law. Legal counsel should be consulted where appropriate.\*\*\*

\*\*\*Note: Option 1 below is for use by Boards that choose not to suspend the enforcement of an order for expulsion in cases where the student has committed an offense for which expulsion is mandatory pursuant to Education Code 48915(c). Option 2 is for use by Boards that, on a case-by-case basis, may determine that an order for expulsion be suspended for any type of offense.\*\*\*

OPTION 1: In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law.

OPTION 2: On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

### Legal Reference:

#### EDUCATION CODE

212.5 Sexual harassment

1981 Enrollment of students in community school

17292.5 Program for expelled students

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48667 Community day schools

48900-48927 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

#### CIVIL CODE

47 Privileged communication

48.8 Defamation liability

#### CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

#### GOVERNMENT CODE

11455.20 Contempt



54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

7151 Gun free schools

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County

Board of Education and Kenneth H., (2001) 85 Cal.App.4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen 146 (2001)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

WEB SITES

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

California Attorney General's Office: <http://www.caag.state.ca.us>

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

U.S. Department of Education, Office of Safe and Drug-Free Schools:  
<http://www.ed.gov/about/offices/list/osdfs/index.html>

**Adopted: May 9, 2007**

**Gravenstein Union School District  
Sebastopol, California**

# CSBA Sample

## Board Policy

### Suspension And Expulsion/Due Process

BP 5144.1

#### Students

\*\*\*Note: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. In addition, Education Code 48918 mandates the setting of rules and regulations for student expulsion; see the accompanying administrative regulation. \*\*\*

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be those specified in law and administrative regulation.

\*\*\*Note: The following optional paragraph highlights the importance of ensuring fairness in the dispensing of suspension and/or expulsion to students who violate school rules. The U.S. Department of Education's Office for Civil Rights' (OCR) March 2012 publication, Civil Rights Data Collection Summary, indicates that males, certain ethnic minority students, and students with disabilities are being suspended or expelled at a disproportionately higher rate than other students. \*\*\*

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the district's nondiscrimination policies.

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

\*\*\*Note: The following optional paragraph may be revised to reflect district practice. Although the term "zero tolerance" does not appear in law, the federal Gun-Free Schools Act (20 USC 7151) requires a district to expel for one year a student who brings a firearm to school without permission. This requirement has commonly been labeled as "zero tolerance." Education Code 48915(c) also requires the mandatory suspension and recommendation for expulsion of students who possess, sell, or furnish a firearm,

brandish a knife, sell a controlled substance, commit or attempt to commit a sexual assault or sexual battery, or possess an explosive. See BP/AR 5131.7 - Weapons and Dangerous Instruments. \*\*\*

\*\*\*Note: The extent to which a district can develop policies mandating a recommendation for expulsion beyond those specified in the Education Code is unclear. In T.H. v. San Diego Unified School District, a district's zero tolerance policy that went beyond the requirements for mandatory recommendation for expulsion in Education Code 48915(c) was upheld because the policy did not interfere with the student's statutory right for due process or conflict with the Education Code. Districts should consult legal counsel as necessary. \*\*\*

Except for single acts of a grave nature or offenses for which suspension or expulsion is required by law, suspension or expulsion shall be used only when the student involved has a history of misconduct and other means of correction have failed to bring about proper conduct or the student's presence causes a continuing danger to himself/herself or others.

To correct the behavior of students who are subject to discipline, the Superintendent or designee, to the extent allowed by law, shall use alternative disciplinary measures that keep students in school during the school day.

(cf. 1020 - Youth Services)  
(cf. 5138 - Conflict Resolution/Peer Mediation)  
(cf. 6142.4 - Service Learning/Community Service Classes)  
(cf. 6164.2 - Guidance/Counseling Services)  
(cf. 6164.5 - Student Success Teams)

\*\*\*Note: The following optional paragraph reflects the Legislature's intent, expressed in Education Code 48900, concerning disciplinary actions against truant, tardy, or absent students. \*\*\*

Alternatives to suspension or expulsion also shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

(cf. 5113 - Absences and Excuses)  
(cf. 5113.1 - Chronic Absence and Truancy)

\*\*\*Note: The following paragraph is optional. \*\*\*

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

(cf. 6145 - Extracurricular and Cocurricular Activities)  
(cf. 6145.2 - Athletic Competition)

## Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5)

(cf. 5119 - Students Expelled from Other Districts)

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

## Removal from Class by a Teacher and Parental Attendance

\*\*\*Note: The following section is for use by any district that chooses to require parents/guardians to attend a portion of the school day when their child is removed from class for specified behaviors, as authorized by Education Code 48900.1. For any such district, the Board is required to include the components specified in this section. Districts that do not require parental attendance should delete this section. \*\*\*

When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code 48900.1)

Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and his/her parents/guardians and to improve classroom behavior.

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law. (Education Code 48900.1)

\*\*\*Note: Education Code 48900.1 mandates that the district's policy include procedures to ensure that parents/guardians who attend school meet with the principal or designee after completing the classroom visitation and before leaving the school. \*\*\*

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

\*\*\*Note: Education Code 48900.1 mandates that the district's policy include procedures

for contacting parents/guardians who do not respond to the request to attend. The following paragraph may be revised to reflect district practice. \*\*\*

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by telephone, mail, or other means that maintains the confidentiality of the student's records.

(cf. 5125 - Student Records)

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

(cf. 5145.6 - Parental Notifications)

#### Supervised Suspension Classroom

\*\*\*Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that if the number of students suspended during the prior year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another program of on-campus progressive discipline. \*\*\*

\*\*\*Note: The following optional section is for use by districts implementing a supervised suspension classroom program; such districts may continue to claim apportionments for students so assigned, provided they meet specific criteria which are set forth under "Supervised Suspension Classroom" in the accompanying administrative regulation. \*\*\*

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised classroom suspension program which meets the requirements of law. The use of such alternatives does not preclude off-campus suspensions.

#### Decision Not to Enforce Expulsion Order

\*\*\*Note: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an order for expulsion if a student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that a board may suspend the enforcement of an expulsion even in those cases where the student has committed an offense for which expulsion must be ordered by law. Legal counsel should be consulted as appropriate. \*\*\*

\*\*\*Note: Option 1 below is for use by boards that choose not to suspend the enforcement of an order for expulsion in cases where the student has committed an offense for which expulsion is mandatory pursuant to Education Code 48915(c). Option 2 is for use by boards that, on a case-by-case basis, may determine that an order for expulsion be suspended for any type of offense. \*\*\*

OPTION 1: In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law and administrative regulation.

OPTION 2: On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law and administrative regulation.

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

1981 Enrollment of students in community school

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48667 Community day schools

48900-48927 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined  
240 Assault defined  
241.2 Assault fines  
242 Battery defined  
243.2 Battery on school property  
243.4 Sexual battery  
245 Assault with deadly weapon  
245.6 Hazing  
261 Rape defined  
266c Unlawful sexual intercourse  
286 Sodomy defined  
288 Lewd or lascivious acts with child under age 14  
288a Oral copulation  
289 Penetration of genital or anal openings  
626.2 Entry upon campus after written notice of suspension or dismissal without permission  
626.9 Gun-Free School Zone Act of 1995  
626.10 Dirks, daggers, knives, razors or stun guns  
868.5 Supporting person; attendance during testimony of witness

#### WELFARE AND INSTITUTIONS CODE

729.6 Counseling

#### UNITED STATES CODE, TITLE 18

921 Definitions, firearm

#### UNITED STATES CODE, TITLE 20

7151 Gun free schools

#### COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H., (2001) 85 Cal.App.4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

#### ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

#### Management Resources:

##### CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

##### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Civil Rights Data Collection Summary, March 2012

##### WEB SITES

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



California Attorney General's Office: <http://www.oag.ca.gov>  
California Department of Education: <http://www.cde.ca.gov>  
U.S. Department of Education, Office for Civil Rights:  
<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>  
U.S. Department of Education, Office of Safe and Drug-Free Schools:  
<http://www.ed.gov/about/offices/list/osdfs>

(11/01 11/04) 3/12

*Current AR*

## **Administrative Regulation**

AR 5144.1

### **Students**

Suspension And Expulsion/Due Process

#### Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(s))

## Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. (Education Code 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

## Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

1. 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. (Education Code 48900(a))

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(s))

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence. (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid,

substance or material and represented same as controlled substance, alcohol beverage, or intoxicant. (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))
7. Stole or attempted to steal school property or private property. (Education Code 48900(g))
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))
12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm, i.e., 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. (Education Code 48900(m))
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription

drug Soma. (Education Code 48900(p))

17. Engaged in, or attempted to engage in, hazing as defined in Education Code 48900(q). (Education Code 48900(q))

Note: Pursuant to Education Code 48900.7, the making of a terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out.

18. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

19. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

(cf. 5145.7 - Sexual Harassment)

20. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

(cf. 5145.9 - Hate-Motivated Behavior)

21. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including but not limited to the following circumstances: (Education Code 48900)

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

4. During, going to, or coming from a school-sponsored activity

The Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(r))

(cf. 5138 - Conflict Resolution/Peer Mediation)

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Truancy)

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

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

Pursuant to Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

#### Suspension by Superintendent, Principal or Principal's Designee

The Superintendent, principal or principal's designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Superintendent or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons

or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

The Superintendent or designee may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the principal, designee, or the Superintendent with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the principal, designee, or the Superintendent determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)



In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911(g))

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

#### Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal or Principal's Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

#### Supervised Suspension Classroom

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school may be assigned to a separate, supervised suspension classroom for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

#### Authority to Expel

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion."

The Board may also order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer or administrative panel, based on either or both of the following finding(s): (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring

about proper conduct

2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

#### Mandatory Recommendation for Expulsion

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal or the Superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive, or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

#### Mandatory Recommendation and Mandatory Expulsion

The Gun-Free Schools Act, 20 USC 7151, requires districts and county offices of education to submit to the CDE assurances of compliance with state and federal laws related to incidents on campus involving the possession of firearms. Item #1 below reflects language that must be submitted to the CDE for compliance. For other such language that must be submitted to the CDE, see sections in this regulation entitled "Final Action by the Board" and "Notifications to Law Enforcement Authorities."

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921 Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

#### Student's Right to Expulsion Hearing

Districts that have developed procedures to enable a student to waive his/her right to a hearing in exchange for an agreement as to the term of the expulsion, also known as a stipulated expulsion, may wish to add those procedures here. Because such waivers are not covered in the Education Code, districts should consult legal counsel as appropriate. The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

#### Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present in the hearing at

the time he/she testifies

3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

#### Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case, and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

## Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including but not limited to videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

In accordance with the Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena.

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20 (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

a. Any complaining witness shall be given five days' notice before being called to testify.

b. Any complaining witness shall be entitled to have up to two adult support persons, including but not limited to a parent/guardian or legal counsel, present during his/her testimony.

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted

according to Penal Code 868.5.

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. **Decision Within 10 School Days:** The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

7. **Decision Within 40 School Days:** If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel



Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing." (Education Code 48918(d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers and with the student's parent/guardian. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

#### Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review as well as assessment of the student at the time of review for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, and other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

#### Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

## Decision Not to Enforce Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following: (Education Code 48917)

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program.
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status.
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct.
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings.
6. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education.
7. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board of Education. (Education Code 48918(j)).

## Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board of Education. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board of Education. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

## Notifications to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind. (Education Code 48902)

## Post-Expulsion Placements

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, comprehensive middle, junior or senior high school, expelled students may be referred to the community school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems

2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site

3. Not housed at the school site attended by the student at the time of suspension

(cf. 6185 - Community Day School)

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for acts described in items #6-13 and #18-21 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

#### Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding re-admission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either

to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)

7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

#### Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5125 - Student Records)

#### Outcome Data

\*\*\*Note: As amended by AB 110 (Ch. 69, Statutes of 2005), Education Code 48916.1 no longer requires that the following data be reported annually to the CDE. However, districts are still required to maintain the data which may be examined during the department's compliance monitoring process.\*\*\*

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

**Adopted: April 9, 2008  
March 17, 2009**

**Gravenstein Union School District  
Sebastopol, California**

# **CSBA Sample**

## **Administrative Regulation**

### **Suspension And Expulsion/Due Process**

AR 5144.1  
**Students**

Note: Education Code 35291 requires the Governing Board to adopt rules and regulations for maintaining discipline in the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 mandate rules concerning the due process rights of students in expulsion situations, and Education Code 48916 mandates procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation.

#### Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the

principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(u))

#### Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

#### Grounds for Suspension and Expulsion

Any student, including a student with disabilities, may be subject to suspension or expulsion when it is determined that he/she:

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

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon another person, except in self-defense. (Education Code 48900(a))

Note: Education Code 48900 allows for the suspension, but not expulsion, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. However, a student may be suspended or expelled if a juvenile court determines that he/she has committed, as an aider or abettor, a crime of physical violence in which the victim suffered either great or serious bodily injury. The term "aiding or abetting," as defined in Penal Code 31, is a complex legal term and requires that, at the time he/she committed the crime, the aider or abettor was aware of the crime and specifically intended to commit the crime. Because of the complexities of criminal law, this issue may be difficult for school administrators to apply in a school setting and legal counsel should be consulted as appropriate.

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, such a student may be suspended or expelled pursuant to Education Code 48900(a) when he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(t))



Note: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm (pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. See BP 5131.7 - Weapons and Dangerous Instruments.

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence. (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))

7. Stole or attempted to steal school property or private property. (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm. (Education Code 48900(m))

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. (Education Code 48900(m))

14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))
17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events.

Note: As amended by AB 1156 (Ch. 732, Statutes of 2011), Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct directed

toward a student and which would have certain consequences upon a reasonable student.

The legal issues regarding the discipline of students for cyberbullying are complex because the acts often originate off campus (e.g., using a home computer) and because such communications may be protected by the freedom of speech rights of students granted pursuant to Education Code 48907. Generally, courts have upheld discipline against students for off-campus conduct that constituted cyberbullying that posed a threat

to the safety of other students, staff, or school property or presented a risk of substantial disruption of school activities. Districts should consult legal counsel as appropriate. See also BP 5131.2 - Bullying and BP 5145.2 - Freedom of Speech/Expression.

18. Engaged in an act of bullying. (Education Code 48900(r))

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Note: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation (as set forth in Education Code 48900.2, 48900.3, or 48900.4; see items #20-22 below) that is committed by a student of any grade level, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may not be disciplined for the underlying violations of items #20-22 below, but may only be disciplined for "bullying."

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 (items #20-22 below), that has any of the effects described above on a reasonable student.

Note: Education Code 48900(r), as amended by AB 1732 (Ch. 157, Statutes of 2012), defines "electronic act" to include posts on social network Internet web sites as specified below. However, Education Code 48900(r) provides that an electronic act shall not constitute pervasive conduct solely by reason of its transmission on the Internet.

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a

reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

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

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

19. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

Note: The following additional grounds apply only to students in grades 4-12 and may be revised to reflect grade levels offered by the district. As discussed in item #18 above, although Education Code 48900(r) defines bullying to include acts involving items #20-22, only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment as stated in items #20-22 below. The interplay between items #18 and #20-22 can raise complex legal issues. Districts should consult legal counsel as appropriate.

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

20. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

21. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233. (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

22. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school or within any other school district, at any time, including, but not limited to, the following:  
(Education Code 48900)

1. While on school grounds
2. While going to or coming from school

(cf. 5131.1 - Bus Conduct)

3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

#### Removal from Class by a Teacher and Parental Attendance

Note: The following section is optional and may be revised to reflect district practice.

A teacher may remove any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above.  
(Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at

school, he/she shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

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

Note: The remainder of this section is for use by districts that have adopted a policy regarding required parental attendance pursuant to Education Code 48900.1; see the accompanying Board policy.

Pursuant to Board policy, a teacher may require the parent/guardian of a student whom the teacher has removed to attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

Note: Education Code 48900.1 requires the principal's notice to specify when the parent/guardian must attend the class and to take into account reasonable factors that may prevent the parent/guardian from complying, such as illness, injury, disability, or absence from town. The following paragraph establishes a one-week deadline for the parent/guardian's attendance. This deadline may be modified to reflect district practice.

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

Note: Items #1-3 below are optional and should be modified to reflect district practice.

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date

2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student

3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

Suspension by Superintendent, Principal, or Designee

The Superintendent, principal, or designee may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above. A student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

However, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

In addition, the Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g)
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year unless, for purposes of adjustment, the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

Note: Item #2 below should be revised to reflect district practice as to the processing and reporting of suspensions.

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.



4. Parent/Guardian Conference: Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about his/her child's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911)

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

#### Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the

closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

#### Supervised Suspension Classroom

Note: The following optional section is for use by districts establishing a supervised on-campus suspension program pursuant to Education Code 48911.1. Use of a supervised suspension program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class.

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

#### Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled upon the recommendation of the Superintendent,

principal, or designee, only if the Board makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

#### Mandatory Recommendation for Expulsion

Unless the Superintendent, principal, or designee finds that expulsion is inappropriate due to particular circumstances, the Superintendent, principal, or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

#### Mandatory Recommendation and Mandatory Expulsion

Note: The Attorney General has determined, in 80 Ops. Cal. Atty. Gen. 347 (1997), that a district may not adopt a zero tolerance policy mandating expulsion of a student for a first offense of possession of a controlled substance or alcohol; see the accompanying Board policy.

The Gun-Free Schools Act, 20 USC 7151, requires districts and county offices of education to submit to the California Department of Education (CDE) assurances of compliance with state and federal laws related to incidents on campus involving the possession of firearms. Item #1 below reflects language that must be submitted to the CDE for compliance. For other such language that must be submitted to the CDE, see sections in this regulation entitled "Final Action by the Board" and "Notifications to Law Enforcement Authorities."

The Superintendent, principal, or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm

from a certificated school employee, with the principal or designee's concurrence

2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

#### Student's Right to Expulsion Hearing

Note: Education Code 48918 mandates that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (*Garcia v. Los Angeles Board of Education*). In calculating timelines, districts should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918.

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed one of the acts listed under "Grounds for Suspension and Expulsion." (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be

held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Note: The following optional paragraph may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which requires a student to waive his/her right to a hearing in exchange for an agreement as to the term of the expulsion. Because such waivers are not covered in the Education Code, districts should consult legal counsel as appropriate.

After a determination that one of the grounds listed above under "Grounds for Suspension and Expulsion" has occurred, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion. The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian.

#### Rights of Complaining Witness

Note: Education Code 48918.5 mandates the following rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation.

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

## Written Notice of the Expulsion Hearing

Note: Education Code 48918 mandates the Board to adopt procedures that include the following items.

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

## Conduct of Expulsion Hearing

Note: Education Code 48918 mandates the Board to adopt procedures that include the following items.

Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or

an impartial administrative panel to conduct the hearing; see section "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel" below. Even if the district conducts all expulsion hearings in this manner, the requirements of that section must be met.

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Note: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

Note: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In *Woodbury v. Dempsey*, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases.

In accordance with the Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the

hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena.

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

Note: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code; the district should consult legal counsel as appropriate.

Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.



Note: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b).

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
  - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
  - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
  - (3) The person conducting the hearing may:

- (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
  - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
  - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

*Alternative Expulsion Hearing: Hearing Officer or Administrative Panel*

Note: For districts that use a hearing officer or administrative panel, Education Code 48918 mandates the Board to adopt procedures that include the following section.

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue its decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the

recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

#### Final Action by the Board

Note: Education Code 48918 mandates the Board to adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Note: The Gun-Free Schools Act, 20 USC 7151, requires that the following paragraph be sent to the CDE for assurances of compliance with federal and state law. For other language that must be submitted to the CDE, see section below entitled "Notifications to Law Enforcement Authorities."

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

Note: The following paragraph is optional. Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students.

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

#### Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

#### Decision Not to Enforce Expulsion Order

Note: Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria.

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

#### Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

#### Notification to Law Enforcement Authorities

Note: The Gun-Free Schools Act, 20 USC 7151, requires that the following two paragraphs be sent to the CDE for assurances of compliance with federal and state law. In addition, Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student or nonstudent possesses a firearm or explosive or sells or furnishes a firearm at school. However, when the student involved in such a case is a student with a disability, Education Code 49076, as amended by AB 143 (Ch. 434, Statutes of 2011), requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities). For other language that must be submitted to the CDE, see section above entitled "Final Action by the Board."

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students regarding the possession, sale, or furnishment of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

#### Post-Expulsion Placements

Note: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the acts described in Education Code 48900(f) through (r) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, middle, junior, or

senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school.

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, middle, junior, or senior high school, expelled students may be referred to the community day school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site

3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #20-22 under "Grounds for Suspension and Expulsion" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

#### Readmission After Expulsion

Note: Education Code 48916 mandates that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. Items #2-4 below should be revised to reflect district practice.

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)

2. The Superintendent or designee shall hold a conference with the parent/guardian

and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.

4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.

5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)

6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)

7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

#### Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record, and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

(cf. 5125 - Student Records)

Note: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days.



The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

#### Outcome Data

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

(7/12)

*Current BP*

## **Board Policy**

BP 0410

### **Philosophy, Goals, Objectives and Comprehensive Plans**

Nondiscrimination In District Programs And Activities

\*\*\*Note: Discrimination in education programs and activities is prohibited by state and federal law. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Vocational Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. State law, Government Code 12940, prohibits employers from discriminating on the basis of all categories listed below, including discrimination on the basis of sexual orientation. Government Code 11138 mandates districts to adopt rules and regulations to carry out the intent of this nondiscrimination provision. Education Code 220 also prohibits discrimination on the basis of sexual orientation in all programs and activities in public schools. The Office for Civil Rights (OCR) of the U.S. Department of Education has authority to enforce federal laws in all programs and activities that receive federal funds. The California Department of Education may also investigate complaints regarding discrimination through the Uniform Complaint Procedure, see BP/AR 1312.3 - Uniform Complaint Procedures.\*\*\*

\*\*\*Note: Education Code 260 and the implementing regulations at 5 CCR 4900-4965 specify that the Board has primary responsibility for ensuring that district programs and activities are free from discrimination on the basis of both sex and gender, among other categories. 5 CCR 4910 defines "sex" as the biological condition or quality of being a female or male human being. "Gender," pursuant to 5 CCR 4910, is defined as a person's actual sex or perceived sex and includes a person's perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth. In accordance with those definitions, the following paragraph lists both "sex" and "gender" as prohibited categories of discrimination.\*\*\*

The Governing Board is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination based on gender, sex, race, color, religion, ancestry, national origin, ethnic group identification, marital or parental status, physical or mental disability, sexual orientation or the perception of one or more of such characteristics. The Board shall promote programs which ensure that discriminatory practices are eliminated in all district activities.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)  
(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 5145.7 - Sexual Harassment)  
(cf. 5146 - Married/Pregnant/Parenting Students)  
(cf. 6145.2 - Athletic Competition)  
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)  
(cf. 6164.6 - Identification and Education Under Section 504)  
(cf. 6178 - Career Technical Education)  
(cf. 6200 - Adult Education)

\*\*\*Note: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. It is important to note that the law does not require a district to make structural changes to existing facilities where other methods are effective in achieving compliance and where the district can demonstrate that the action would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. Districts with questions about compliance with the ADA should consult with legal counsel as appropriate.\*\*\*

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act.

\*\*\*Note: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires school districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program or meeting, or would be an undue burden, then the district need not provide them.\*\*\*

\*\*\*Note: In addition, Government Code 54953.2, as added by AB 3035 (Ch. 300, Statutes of 2002), requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160, 36.303). The district is required to ensure that the meeting is accessible to persons with disabilities and, upon request, to provide disability-related accommodations, such as auxiliary aids and services. \*\*\*

The Superintendent or designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials.

(cf. 6020 - Parent Involvement)

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program or meeting.

(cf. 9320 - Meetings and Notices)  
(cf. 9322 - Agenda/Meeting Materials)

\*\*\*Note: Pursuant to 34 CFR 104.8 and 106.9, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations and applicants for admission and employment that it does not discriminate in its educational programs or activities.\*\*\*

The Superintendent or designee shall notify students, parents/guardians, employees, employee organizations and applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination. Such notification shall be included in each announcement, bulletin, catalog, application form or other recruitment materials distributed to these groups. (34 CFR 104.8, 106.9)

The Superintendent or designee shall also provide information about related complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4031 - Complaints Concerning Discrimination in Employment)

\*\*\*Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, the No Child Left Behind Act (20 USC 6311 and 6312) requires that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.\*\*\*

In compliance with law, the district's nondiscrimination policy shall be published in the individual's primary language to the extent practicable.

(cf. 5145.6 - Parental Notifications)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48985 Notices to parents in language other than English

GOVERNMENT CODE

11000 Definitions

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act  
54953.2 Brown Act compliance with Americans with Disabilities Act  
PENAL CODE  
422.55 Definition of hate crime  
422.6 Interface with constitutional right or privilege  
CODE OF REGULATIONS, TITLE 5  
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance  
UNITED STATES CODE, TITLE 20  
1400-1482 Individuals with Disabilities in Education Act  
1681-1688 Discrimination based on sex or blindness, Title IX  
2301-2415 Carl D. Perkins Vocational and Applied Technology Act  
6311 State plans  
6312 Local education agency plans  
UNITED STATES CODE, TITLE 29  
794 Section 504 of the Rehabilitation Act of 1973  
UNITED STATES CODE, TITLE 42  
2000d-2000d-7 Title VI, Civil Rights Act of 1964  
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended  
2000h-2000h-6 Title IX  
12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.101-35.190 Americans with Disabilities Act  
36.303 Auxiliary aids and services  
CODE OF FEDERAL REGULATIONS, TITLE 34  
100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI  
104.1-104.39 Section 504 of the Rehabilitation Act of 1973  
106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:  
106.9 Dissemination of policy

**Management Resources:**

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

Protecting Students from Harassment and Hate Crime, January, 1999

Notice of Non-Discrimination, January, 1999

Nondiscrimination in Employment Practices in Education, August, 1991

**WEB SITES**

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

CDE: <http://www.cde.ca.gov>

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

Safe Schools Coalition: <http://www.casafeschoolscoalition.org>

Pacific Disability and Business Technical Assistance Center: <http://www.adapacific.org>

**Adopted: July 9, 2008**

**Gravenstein Union School District  
Sebastopol, California**

# CSBA Sample

## Board Policy

### Nondiscrimination In District Programs And Activities

BP 0410

#### Philosophy, Goals, Objectives and Comprehensive Plans

\*\*\*Note: Government Code 11138 mandates districts to adopt rules and regulations to ensure that district programs and activities are free from unlawful discrimination. In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on race, nationality, ethnicity, gender, sex, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55, and, as amended by AB 887 (Ch. 719, Statutes of 2011), gender identity and gender expression. Furthermore, Government Code 11135 prohibits discrimination based on all the foregoing characteristics, age, disability, and, as amended by SB 559 (Ch. 261, Statutes of 2011), an individual's genetic information. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. \*\*\*

\*\*\*Note: Education Code 260 and 5 CCR 4900-4965 require the Governing Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office of Civil Rights of the U.S. Department of Education, and the California Department of Education may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4687. \*\*\*

\*\*\*Note: Government Code 12940, as amended by both SB 559 and AB 887, prohibits employers from discriminating against employees and job applicants based on genetic information, gender identity, and/or gender expression. For policy language addressing these prohibitions, see BP 4030 - Nondiscrimination in Employment. \*\*\*

The Governing Board is committed to equal opportunity for all individuals in education. District programs, activities, and practices shall be free from discrimination based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)  
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)  
(cf. 5131.2 - Bullying)  
(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 5145.7 - Sexual Harassment)  
(cf. 5146 - Married/Pregnant/Parenting Students)  
(cf. 6145.2 - Athletic Competition)  
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)  
(cf. 6164.6 - Identification and Education Under Section 504)  
(cf. 6178 - Career Technical Education)  
(cf. 6200 - Adult Education)

\*\*\*Note: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.9, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate on the bases of disability and sex in its educational programs or activities. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph. \*\*\*

Pursuant to 34 CFR 104.8 and 34 CFR 106.9, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in each announcement, bulletin, catalog, application form, or other recruitment materials distributed to these groups.

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4031 - Complaints Concerning Discrimination in Employment)  
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)  
(cf. 5145.6 - Parental Notifications)

\*\*\*Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, the No Child Left Behind Act (20 USC 6311 and 6312) requires that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand. \*\*\*

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand and, when required by law, in a language other than English.

## Access for Individuals with Disabilities

\*\*\*Note: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. In achieving compliance, a district need not make structural changes to existing facilities if other methods are effective and the district can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, starting March 15, 2012, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs pursuant to 28 CFR 35.151, as amended by 75 Fed. Reg. 178. \*\*\*

\*\*\*Note: In addition, pursuant to 28 CFR 35.136, as amended by 75 Fed. Reg. 178, a district must permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity. For language addressing this mandate, see AR 6163.2 - Animals at School. Districts with questions about compliance with the ADA should consult with legal counsel as appropriate. \*\*\*

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act and any implementing standards and/or regulations.

(cf. 6163.2 - Animals At School)  
(cf. 7110 - Facilities Master Plan)  
(cf. 7111 - Evaluating Existing Buildings)

\*\*\*Note: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program, or meeting or would be an undue burden, then the district need not provide them. \*\*\*

\*\*\*Note: In addition, Government Code 54953.2 requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160 and 36.303). In effect, the district must ensure that such meetings are accessible to persons with disabilities and that, upon the request of any person with a disability, disability-related accommodations, such as auxiliary aids and services, are made available. \*\*\*

The Superintendent or designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print



materials.

(cf. 6020 - Parent Involvement)

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program, or meeting.

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48985 Notices to parents in language other than English

51007 Legislative intent: state policy

GOVERNMENT CODE

11000 Definitions

11135 Nondiscrimination in programs or activities funded by state

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act

54953.2 Brown Act compliance with Americans with Disabilities Act

PENAL CODE

422.55 Definition of hate crime

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities in Education Act

1681-1688 Discrimination based on sex or blindness, Title IX

2301-2415 Carl D. Perkins Vocational and Applied Technology Act

6311 State plans

6312 Local education agency plans

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2000h-6 Title IX

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

36.303 Auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:

106.9 Dissemination of policy

Management Resources:

CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010

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

Notice of Non-Discrimination, January 1999

Protecting Students from Harassment and Hate Crime, January 1999

Nondiscrimination in Employment Practices in Education, August 1991

WEB SITES

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

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

Safe Schools Coalition: <http://www.casafeschoolscoalition.org>

Pacific ADA Center: <http://www.adapacific.org>

U.S. Department of Education, Office for Civil Rights:

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

(11/99 7/03) 3/12

## Board Policy

BP 1312.3

### Community Relations

#### Uniform Complaint Procedures

\*\*\*Note: 5 CCR 4621 mandates districts to adopt policies and procedures not inconsistent with the state's uniform complaint procedures as specified in 5 CCR 4600-4687. During the Categorical Program Monitoring (CPM) process (formerly the Coordinated Compliance Review), California Department of Education (CDE) staff will review the district's uniform complaint policy, administrative regulation, and annual notification. During this review, CDE staff will check to ensure that the district's policy contains a statement that the district is primarily responsible for legal enforcement and investigation of complaints, as specified in the following paragraph. \*\*\*

The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures. (5 CCR 4620)

\*\*\*Note: The following paragraph lists types of discrimination prohibited by state and federal law, as well as protected groups listed in 5 CCR 4600, as amended by Register 2005, No. 52. Pursuant to 5 CCR 4600, this list includes discrimination based on a person's actual or perceived sex, gender, or sexual orientation, as specified below. During the CPM process, CDE staff will check to ensure that all protected categories of discrimination are listed in the district's policy. In addition, 5 CCR 4600, as amended, changed the title of vocational instruction to career/technical instruction. \*\*\*

\*\*\*Note: Education Code 32289 authorizes an individual to file a complaint if he/she believes that the district has not complied with the school safety planning requirements of the No Child Left Behind Act, 20 USC 7114(d)(7). The CDE has interpreted this to mean that only complaints as to the development and adoption of the school safety plan need to be considered under this procedure. \*\*\*

\*\*\*Note: Even if the district participates in a special education local planning area (SELPA), it is required to use the district's uniform complaint procedures when investigating complaints regarding special education. Pursuant to 5 CCR 3080, due process hearing procedures are to be used for the resolution of issues between a parent/guardian and a district or SELPA regarding the identification, assessment, or placement of a special education student. See BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education.\*\*\*

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs. (5 CCR 4610)

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- (cf. 1312.1 - Complaints Concerning District Employees)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 3553 - Free and Reduced Price Meals)
- (cf. 4031 - Complaints Concerning Discrimination in Employment)
- (cf. 5141.4 - Child Abuse Prevention and Reporting)
- (cf. 5148 - Child Care and Development)
- (cf. 6159 - Individualized Education Program)
- (cf. 6171 - Title I Programs)
- (cf. 6174 - Education for English Language Learners)
- (cf. 6175 - Migrant Education Program)
- (cf. 6178 - Career Technical Education)
- (cf. 6200 - Adult Education)

\*\*\*Note: Education Code 35186 requires a district to use the uniform complaint procedure, with modifications, to investigate and resolve complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff, and teacher vacancy or misassignment (i.e., Williams complaints). However, because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, the CDE has created a separate uniform complaint process for "Williams" complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure. \*\*\*

Complaints 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, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

- (cf. 1312.4 - Williams Uniform Complaint Procedures)

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

\*\*\*Note: 5 CCR 4621 mandates that the district's policy ensure that the identity of the complainant alleging discrimination remains confidential, as appropriate. 5 CCR 4630, as amended by Register 2005, No. 52, requires that the investigation of a discrimination complaint be conducted in a manner that protects the confidentiality of the parties and maintains the integrity of the process. Appropriate disclosure will vary in each case depending on the facts and circumstances.\*\*\*

The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 5125 - Student Records)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)

\*\*\*Note: 5 CCR 4621 mandates that the district's policy ensure that complainants are protected from retaliation. \*\*\*

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4631 authorizes the district to utilize alternative dispute resolution methods, including mediation, to help resolve complaints before initiating a formal investigation. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice. \*\*\*

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4650-4665 provide that the CDE may directly intervene in a complaint without waiting for district action under certain conditions, including when a district has failed to cooperate with the investigation or when the complainant has requested anonymity because he/she would be in danger of retaliation and would suffer immediate harm if a complaint was filed at the district. \*\*\*

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedure

35186 Williams uniform complaint procedure

41500-41513 Categorical education block grants

48985 Notices in language other than English

49060-49079 Student records

49490-49590 Child nutrition programs

52160-52178 Bilingual education programs

52300-52490 Career-technical education

52500-52616.24 Adult schools

52800-52870 School-based coordinated programs

54000-54028 Economic impact aid programs

54100-54145 Miller-Unruh Basic Reading Act

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

PENAL CODE

422.6 Interference with constitutional right or privilege

UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

Management Resources:

WEB SITES

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

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

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

**Adopted: April 18, 2007**

**Gravenstein Union School District  
Sebastopol, California**

# Administrative Regulation

AR 1312.3

## Community Relations

Uniform Complaint Procedures

Compliance Officers

\*\*\*Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), employee(s), agency position(s) or unit(s) responsible for ensuring compliance with state and federal law and for receiving and investigating complaints alleging noncompliance or discrimination. During its Categorical Program Monitoring (CPM) process (formerly the Coordinated Compliance Review), California Department of Education (CDE) staff will check to ensure that the district's policy lists the specific title(s) of the employee(s) responsible for investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below.\*\*\*

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Superintendent

3840 Twig Avenue, Sebastopol, CA 95472

707-823-7008

\*\*\*Note: 5 CCR 4621 mandates that the district policy provide that employees responsible for compliance and/or investigation of complaints are knowledgeable about the laws and programs they are assigned to investigate. The second sentence below may be modified to reflect district practice.\*\*\*

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

Notifications



\*\*\*Note: During the CPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's uniform complaint procedures. As amended by Register 2005, No. 52, 5 CCR 4622 requires that the notice be provided to private school representatives and to the other parties specified below.\*\*\*

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

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4622 requires that the district provide free copies of the district's uniform complaint procedures.\*\*\*

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

\*\*\*Note: During the CPM process, CDE staff will also check the notice to ensure that it contains a summary of the complaint procedures as specified items #1-4 as listed below.\*\*\*

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
  - a. The district is primarily responsible for compliance with state and federal laws and regulations
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline
  - c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination

d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision

e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision

(cf. 5145.6 - Parental Notifications)

#### Procedures

\*\*\*Note: 5 CCR 4621 mandates district complaint procedures consistent with the uniform procedures of 5 CCR 4600-4687. 5 CCR 4631 requires that all complaints be investigated and completed within 60 days of the receipt of the complaint. The sample timelines in Steps #1-3 below are suggestions and should be revised to reflect district practice, but they must be designed to ensure that the district's investigation is completed and its written report sent to the complainant within 60 days of receiving the complaint. Pursuant to 5 CCR 4640, as amended by Register 2005, No. 52, when a complaint is erroneously sent to the CDE without first being filed with the district, and then forwarded by the CDE back to the district, this 60-day period begins whenever the district receives the complaint. \*\*\*

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

#### Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630)

\*\*\*Note: Pursuant to 5 CCR 4630, complaints of unlawful discrimination must be initiated within six months from the date of the alleged discrimination or six months from the date when the complainant acquired knowledge of the facts of the alleged discrimination. However, as amended by Register 2005, No. 52, upon written request by the complainant, the Superintendent or designee may extend, for good cause, the six-month filing period by up to 90 days. \*\*\*

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific

class of individuals has been subjected to unlawful discrimination. (5 CCR 4630)

\*\*\*Note: The following paragraph may be revised to reflect district practice.\*\*\*

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 complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

#### Step 2: Investigation of Complaint

\*\*\*Note: The timeline in the following paragraph is optional and should be revised to reflect district practice.\*\*\*

The compliance officer is encouraged to hold an investigative meeting within ten days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4631 requires the district to provide the complainant with the opportunity to present relevant information, as specified below. \*\*\*

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (5 CCR 4631)

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the CPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy, as specified below. \*\*\*

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate

in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

### Step 3: Response

\*\*\*Note: Pursuant to 5 CCR 4631, the district's written decision must be sent to the complainant within 60 days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 days so that the Board's decision can still be given within the 60-day time limit.\*\*\*

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

### Step 4: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

\*\*\*Note: Education Code 48985 requires that reports sent to the parents/guardians be written in the primary language when 15% or more of a school's enrolled students speak a single primary language other than English. \*\*\*

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

\*\*\*Note: As amended by Register 2005, No. 52, 5 CCR 4631 specifies components that should be part of the district's decision. Inclusion of these items will help protect the district's position in case of an appeal to the CDE or if litigation is filed. \*\*\*

The decision shall include:

1. The findings of fact based on the evidence gathered (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)

6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)

7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3)

\*\*\*Note: The following paragraph provides a means for ensuring protection of privacy rights, while still assuring the complainant that appropriate action has been taken, and may be revised to reflect district practice.\*\*\*

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

Appeals to the California Department of Education

\*\*\*Note: As amended and renumbered by Register 2005, No. 52, 5 CCR 4632 specifies the items that must be included in the complainant's appeal to the CDE.\*\*\*

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

\*\*\*Note: Documents and issues that may be considered by the CDE when reviewing the appeal are specified in 5 CCR 4633, as amended by Register 2005, No. 52.\*\*\*

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. 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
5. A report of any action taken to resolve the complaint

6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

\*\*\*Note: 5 CCR 4650 details circumstances under which the Superintendent of Public Instruction may directly intervene without waiting for action by the district. One such circumstance is when the district has not taken action on a complaint within 60 days of the date that the complaint was filed with the district.\*\*\*

The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

\*\*\*Note: 5 CCR 4611, as amended by Register 2005, No. 52, details complaint issues that are not subject to district complaint procedures and not under the jurisdiction of the CDE. Such issues include, but are not limited to, allegations of child abuse, health and safety complaints related to a child development program, employment discrimination complaints, and allegations of fraud.\*\*\*

#### Civil Law Remedies

\*\*\*Note: During the CPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (e.g., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from the CDE. Pursuant to Education Code 262.3, a complainant alleging discrimination must wait until 60 days after filing an appeal to the CDE before pursuing civil litigation, but may immediately pursue injunctive relief (e.g., an injunction or restraining order prohibiting a person or entity from doing a specified act) before a court of law.\*\*\*

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

**Adopted: April 18, 2007**

**Gravenstein Union School District  
Sebastopol, California**

# CSBA Sample

## Administrative Regulation

### Uniform Complaint Procedures

AR 1312.3

#### Community Relations

##### Compliance Officers

\*\*\*Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with state and federal law and for receiving and investigating complaints alleging noncompliance or discrimination. During its Federal Program Monitoring (FPM) process (formerly Categorical Program Monitoring), California Department of Education (CDE) staff will check to ensure that the district's policy lists the specific title(s) of the employee(s) responsible for investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below. \*\*\*

The following compliance officer(s) shall receive and investigate complaints and shall ensure district compliance with law:

(title or position)

(address)

(telephone number)

\*\*\*Note: 5 CCR 4621 mandates that the district's policy provide that employees responsible for compliance and/or investigation of complaints are knowledgeable about the laws and programs they are assigned to investigate. The second sentence below may be modified to reflect district practice. \*\*\*

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

##### Notifications

\*\*\*Note: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's

uniform complaint procedures. A sample of the annual notice is available through the CDE web site. 5 CCR 4622 requires that the notice be provided to private school representatives and others specified below. \*\*\*

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

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

\*\*\*Note: During the FPM process, CDE staff will check the notice to ensure that it contains a summary of the complaint procedures as specified in items #1-4 below. \*\*\*

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
  - a. The district is primarily responsible for compliance with state and federal laws and regulations.
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination.
  - d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision.
  - e. The appeal to the CDE must include a copy of the complaint filed with the district



and a copy of the district's decision.

\*\*\*Note: To ensure that the public is made aware of districts' obligation to provide the uniform complaint procedures free of charge pursuant to 5 CCR 4622, CDE staff review the notice during the FPM process. \*\*\*

f. Copies of the district's uniform complaint procedures are available free of charge.

#### Procedures

\*\*\*Note: 5 CCR 4621 mandates that district's uniform complaint procedures be consistent with the procedures of 5 CCR 4600-4687. 5 CCR 4631 requires that all complaints be investigated and completely resolved within 60 days of the receipt of the complaint. The sample timelines in Steps #1-3 below are designed to ensure that the district complies with the 60-day requirement and should be revised to reflect district practice. Pursuant to 5 CCR 4640, when a complaint is erroneously sent to the CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint. \*\*\*

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs or has committed unlawful discrimination.

All complaints shall be investigated and resolved within 60 days of the receipt of the complaint. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

#### Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of the district's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630)

A complaint concerning unlawful discrimination may be filed only by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 days. (5 CCR 4630)

\*\*\*Note: The following paragraph may be revised to reflect district practice. \*\*\*

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 complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

## Step 2: Mediation

\*\*\*Note: The following optional section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through mediation; see the accompanying Board policy. Timelines should be revised to reflect district practice. \*\*\*

Within three days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her 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. (5 CCR 4631)

## Step 3: Investigation of Complaint

\*\*\*Note: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the timeline specified below may be modified to reflect district practice. \*\*\*

Within 10 days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

\*\*\*Note: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the

investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy, as specified below. \*\*\*

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 engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and/or other information related to the allegation in the complaint. (5 CCR 4631)

#### Step 4: Response

\*\*\*Note: Pursuant to 5 CCR 4631, the district's written decision must be sent to the complainant within 60 days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 days so that the Board's decision can still be given within the 60-day time limit. \*\*\*

#### OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

#### OPTION 2:

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her 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. 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 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)

Step 5: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

\*\*\*Note: Education Code 48985 requires that reports sent to parents/guardians be written in the primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. \*\*\*

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

\*\*\*Note: 5 CCR 4631 specifies components that should be part of the district's decision. Inclusion of these items will help protect the district's position in case of an appeal to the CDE or if litigation is filed. \*\*\*

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal

In addition, any decision concerning a discrimination complaint based on state law shall include a notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. (Education Code 262.3)

\*\*\*Note: The following paragraph provides a means for ensuring that the privacy rights of individuals involved are protected even as appropriate action is being taken to address a complaint and may be revised to reflect district practice. \*\*\*

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

## Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. 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
5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

\*\*\*Note: 5 CCR 4650 details circumstances under which the Superintendent of Public Instruction may directly intervene without waiting for action by the district. One such circumstance is when the district has not taken action on a complaint within 60 days of the date that the complaint was filed with the district. \*\*\*

The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

## Civil Law Remedies

\*\*\*Note: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from the CDE. \*\*\*

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private

interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

\*\*\*Note: Pursuant to Education Code 262.3, a complainant alleging discrimination based on state law must wait until 60 days after filing an appeal with the CDE before filing a civil suit, except when he/she is only seeking injunctive relief from the court such as an injunction or restraining order. The 60-day waiting period does not apply when the discrimination complaint is based on federal law. \*\*\*

For discrimination complaints based on state law, a complainant shall wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the district has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law.

\*\*\*Note: 5 CCR 4611 details complaint issues that are not subject to the district's uniform complaint procedures and not under the jurisdiction of the CDE. Such issues include, but are not limited to, allegations of child abuse, health and safety complaints related to a child development program, allegations of fraud, and employment discrimination complaints. For procedures related to complaints of discrimination in employment, see AR 4031 - Complaints Concerning Discrimination in Employment. \*\*\*

(3/02 1/06) 3/12

# CSBA Sample

## Board Policy

### Uniform Complaint Procedures

BP 1312.3

#### Community Relations

\*\*\*Note: To address prohibited discrimination and possible violations of state and federal laws governing educational programs, 5 CCR 4621 mandates districts to adopt uniform complaint policies and procedures consistent with the state's complaint procedures specified in 5 CCR 4600-4687. The California Department of Education (CDE) monitors districts for compliance with these procedures through its Federal Program Monitoring (FPM) process (formerly Categorical Program Monitoring). The FPM includes a review of written district policies and procedures for required language and records of required activities, such as annual notification provided to students, employees, and other school community members. \*\*\*

The Governing Board recognizes the district's responsibility to comply with applicable state and federal laws and regulations governing educational programs. The district shall investigate any complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

\*\*\*Note: The following paragraph lists types of discrimination prohibited by state and federal law, as well as protected groups listed in 5 CCR 4610. Pursuant to Education Code 220, as amended by AB 887 (Ch. 719, Statutes of 2011), and Government Code 11135, as amended by SB 559 (Ch. 261, Statutes of 2011), it is unlawful to discriminate against any person based on his/her gender identity, gender expression, or genetic information. \*\*\*

The district shall use the uniform complaint procedures to resolve any complaint alleging unlawful discrimination in district programs and activities based on actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 4031 - Complaints Concerning Discrimination in Employment)

\*\*\*Note: 5 CCR 4610 specifies programs and activities for which state and/or federal funding is provided to districts and for which districts are required to establish a uniform system of complaint processing. In addition, Education Code 32289 authorizes an

individual to file a complaint if he/she believes that the district has not complied with the school safety planning requirements of the No Child Left Behind Act, 20 USC 7114(d)(7). The CDE has interpreted this to mean that complaints as to the development and adoption of the school safety plan may be considered under this procedure. \*\*\*

Uniform complaint procedures shall also be used to address any complaint alleging the district's failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, and the development and adoption of the school safety plan.

- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 1312.1 - Complaints Concerning District Employees)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 3553 - Free and Reduced Price Meals)
- (cf. 3555 - Nutrition Program Compliance)
- (cf. 5141.4 - Child Abuse Prevention and Reporting)
- (cf. 5148 - Child Care and Development)
- (cf. 6159 - Individualized Education Program)
- (cf. 6171 - Title I Programs)
- (cf. 6174 - Education for English Language Learners)
- (cf. 6175 - Migrant Education Program)
- (cf. 6178 - Career Technical Education)
- (cf. 6178.1 - Work-Based Learning)
- (cf. 6178.2 - Regional Occupational Center/Program)
- (cf. 6200 - Adult Education)

\*\*\*Note: 5 CCR 4621 mandates that the district's policy ensure that complainants are protected from retaliation. \*\*\*

The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

\*\*\*Note: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution methods, including mediation, to resolve complaints before initiating a formal investigation. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice. \*\*\*

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving the problem through mediation,



the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

\*\*\*Note: The following paragraph is mandated pursuant to 5 CCR 4621. Appropriate disclosure will vary in each case depending on the facts and circumstances. \*\*\*

In investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate, the Superintendent or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

\*\*\*Note: Education Code 35186 requires the district to use uniform complaint procedures, with modifications, to investigate and resolve complaints related to items #1-4 below (i.e., "Williams complaints"). However, because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, the CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure. \*\*\*

The district's Williams uniform complaint procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the following:

1. Sufficiency of textbooks or instructional materials
2. Emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff
3. Teacher vacancies and misassignments

\*\*\*Note: Districts that do not receive funding for California High School Exit Examination intensive instruction and services pursuant to Education Code 37254 should delete item #4 below. \*\*\*

4. Deficiency in the district's provision of instruction and/or services to any student who, by the completion of grade 12, has not passed one or both parts of the high school exit examination

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 6162.52 - High School Exit Examination)

(cf. 6179 - Supplemental Instruction)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination  
8200-8498 Child care and development programs  
8500-8538 Adult basic education  
18100-18203 School libraries  
32289 School safety plan, uniform complaint procedures  
35186 Williams uniform complaint procedures  
37254 Intensive instruction and services for students who have not passed exit exam  
41500-41513 Categorical education block grants  
48985 Notices in language other than English  
49060-49079 Student records  
49490-49590 Child nutrition programs  
52160-52178 Bilingual education programs  
52300-52490 Career technical education  
52500-52616.24 Adult schools  
52800-52870 School-based program coordination  
54000-54028 Economic impact aid programs  
54100-54145 Miller-Unruh Basic Reading Act  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

PENAL CODE

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

Management Resources:

WEB SITES

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

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

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

(11/04 1/06) 3/12