

CONCEPTS AND ROLES

The Board of Trustees desires to provide a comprehensive, research-based curriculum that motivates every student to succeed. The district's educational program shall provide students with opportunities to attain the skills, knowledge, and abilities they need to be successful in school and develop to their full potential.

Strategies for improving the educational program shall take into consideration the needs of individual students and subpopulations of students. Students who are failing or at risk of failing to meet academic standards shall be provided with alternative programs and/or supplemental assistance designed to raise achievement.

Inasmuch as parents/guardians are critical partners in their children's education, parents/guardians shall be provided with opportunities to be meaningfully involved both in support of their children's education program at school and with learning at home.

The Board shall:

1. Review standards of student achievement for core subjects at each grade level that are aligned with the district's vision for student learning, the specific needs and strengths of the students, the expectations of parents/guardians and the community, and available resources
2. Adopt textbooks and other instructional materials
3. Support the professional staff's implementation of the curriculum by allocating resources based on educational program priorities and recognizing staff accomplishments
4. Review and evaluate the educational program on the basis of state and federal accountability measures, disaggregated student achievement data, and other indicators and ensure that evaluation results are used to improve programs, curriculum, and/or instructional practices as necessary to enhance student achievement

The Superintendent or designee shall:

1. Review research related to curriculum issues
2. Select and/or develop curricula for recommendation to the Board in accordance with the district's curriculum development and review process
3. Ensure the articulation of the curriculum between grade levels and with postsecondary education and the workplace
4. Determine the general methods of instruction to be used

CONCEPTS AND ROLES (continued)

5. Assign instructors and schedule classes for all curricular offerings
6. Recommend instructional materials to the Board and direct the purchase of approved materials and equipment
7. Evaluate and report to the Board on student achievement as demonstrated through testing and other types of appraisal, and recommend necessary changes in curriculum, programs, and instruction as indicated by student performance data

Legal Reference:

EDUCATION CODE

51000-51007 Legislative intent, educational program

CODE OF REGULATIONS, TITLE 5

3940 Maintenance of effort

4424 Comparability of services

UNITED STATES CODE, TITLE 20

6321 Fiscal requirements/comparability of services

OBJECTIVES OF THE INSTRUCTIONAL PROGRAM (K-8)

The Board of Trustees expects and directs the administration to consult with the instructional staff to develop and maintain the objectives which will be in harmony with the law and the Board adopted philosophy, goals and objectives (see Series 0000), and which will guide all classroom and other instructional activities, including evaluative and student achievement reporting processes.

Legal Reference:

EDUCATION CODE

51000 et seq. Legislative intent for education program

51040-51041 Role of local agency

51200-51205 Required Courses of Study (General Provisions)

51210-51213 Course of study, grades 1 to 6

51215 Proficiency standards in basic skills

51216 Pupil proficiency assessment

51219.5 Student progress

51220-51228 Courses of Study, grades 7-12

51260 et seq. Drug Education

GOVERNMENT CODE

3542.2 (re: scope of representations)

PARENT INVOLVEMENT

The Board of Trustees recognizes that parents/guardians are their children's first and most influential teachers and that sustained parent involvement in the education of their children contributes greatly to student achievement and a positive school environment. The Superintendent or designee shall work with staff and parents/guardians to develop meaningful opportunities at all grade levels for parents/guardians to be involved in district and school activities; advisory, decision-making, and advocacy roles; and activities to support learning at home.

Title I Schools

Each year the Superintendent or designee shall identify specific objectives of the district's parent involvement program for schools that receive Title I funding. He/she shall ensure that parents/guardians are consulted and participate in the planning, design, implementation, and evaluation of the parent involvement program. (Education Code 11503)

The Superintendent or designee shall ensure that the district's parent involvement strategies are jointly developed with and agreed upon by parents/guardians of students participating in Title I programs. Those strategies shall establish expectations for parent involvement and describe how the district will carry out each activity listed in 20 USC 6318. (20 USC 6318)

The Superintendent or designee shall consult with parents/guardians of participating students in the planning and implementation of parent involvement programs, activities, and regulations. He/she also shall involve parents/guardians of participating students in decisions regarding how the district's Title I funds will be allotted for parent involvement activities. (20 USC 6318)

The Superintendent or designee shall ensure that each school receiving Title I funds develops a school-level parent involvement policy in accordance with 20 USC 6318.

Non-Title I Schools

The Superintendent or designee shall develop and implement strategies applicable to each school that does not receive federal Title I funds to encourage the involvement and support of parents/guardians in the education of their children, including, but not limited to, strategies describing how the district and schools will address the purposes and goals described in Education Code 11502. (Education Code 11504)

Legal Reference: (see next page)

PARENT INVOLVEMENT (continued)

Legal Reference:

EDUCATION CODE

11500-11506 Programs to encourage parent involvement

48985 Notices in languages other than English

51101 Parent rights and responsibilities

64001 Single plan for student achievement

LABOR CODE

230.8 Time off to visit child's school

UNITED STATES CODE, TITLE 20

6311 Parental notice of teacher qualifications and student achievement

6312 Local educational agency plan

6314 Schoolwide programs

6316 School improvement

6318 Parent involvement

CODE OF FEDERAL REGULATIONS, TITLE 28

35.104 Definitions, auxiliary aids and services

35.160 Communications

PARENT INVOLVEMENT

District Strategies for Title I Schools

To ensure that parents/guardians of students participating in Title I programs are provided with opportunities to be involved in their children's education, the Superintendent or designee shall:

1. Involve parents/guardians of participating students in the joint development of the Title I local educational agency (LEA) plan pursuant to 20 USC 6312 and the process of school review and improvement pursuant to 20 USC 6316 (20 USC 6318)

The Superintendent or designee may:

- a. Establish a district-level committee including parent/guardian representatives from each school site to review and comment on the LEA plan in accordance with the review schedule established by the Board of Trustees
 - b. Invite input on the LEA plan from other district committees and school site councils
 - c. Communicate with parents/guardians through the district newsletter, web site, or other methods regarding the LEA plan and the opportunity to provide input
 - d. Provide copies of working drafts of the LEA plan to parents/guardians in an understandable and uniform format and, to the extent practicable, in a language the parents/guardians can understand
 - e. Ensure that school-level policies on parent involvement address the role of school site councils and other parents/guardians as appropriate in the development and review of school plans
2. Provide coordination, technical assistance, and other support necessary to assist Title I schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance (20 USC 6318)

The Superintendent or designee may:

- a. Assign person(s) in the district office to serve as a liaison to the schools regarding Title I parent involvement issues
- b. Provide training for the principal or designee of each participating school regarding Title I requirements for parent involvement, leadership strategies, and communication skills to assist him/her in facilitating the planning and implementation of parent involvement activities

PARENT INVOLVEMENT (continued)

- c. Provide ongoing district-level workshops to assist school site staff and parents/guardians in planning and implementing improvement strategies, and seek input from parents/guardians in developing the workshops
3. Build the capacity of schools and parents/guardians for strong parent involvement (20 USC 6318)

The Superintendent or designee shall: (20 USC 6318)

- a. Assist parents/guardians in understanding such topics as the state's academic content standards and academic achievement standards, state and local academic assessments, the requirements of Title I, and how to monitor a child's progress and work with educators to improve the achievement of their children
- b. Provide materials and training to help parents/guardians work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parent involvement
- c. Educate teachers, student services personnel, principals, and other staff, with the assistance of parents/guardians, in the value and utility of parent/guardian contributions and in how to reach out to, communicate with, and work with parents/guardians as equal partners, implement and coordinate parent/guardian programs, and build ties between parents/guardians and the schools
- d. To the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with other programs, and conduct other activities, such as parent resource centers, that encourage and support parents/guardians in more fully participating in their children's education
- e. Ensure that information related to school and parent/guardian programs, meetings, and other activities is sent to the parents/guardians of participating students in a format and, to the extent practicable, in a language the parents/guardians can understand
- f. Provide other such reasonable support for parent involvement activities as parents/guardians may request
- g. Inform parents/guardians and parent organizations of the existence and purpose of parent information and resource centers in the state that provide training, information, and support to parents/guardians of participating students

PARENT INVOLVEMENT (continued)

In addition, the Superintendent or designee may:

- a. Provide necessary literacy training, using Title I funds if the district has exhausted all other reasonably available sources of funding for such training
- b. Pay reasonable and necessary expenses associated with parent involvement activities, including transportation and child care costs, to enable parents/guardians to participate in school-related meetings and training sessions
- c. Train parents/guardians to enhance parent involvement.
- d. Arrange school meetings at a variety of times or, when parents/guardians are unable to attend such conferences, conduct in-home conferences between parents/guardians and teachers or other educators who work directly with participating students
- e. Adopt and implement model approaches to improving parent involvement
- f. Establish a districtwide parent advisory council to provide advice on all matters related to parent involvement in Title I programs
- g. Develop appropriate roles for community-based organizations and businesses in parent involvement activities
- h. Make referrals to community agencies and organizations that offer literacy training, parent education programs, and/or other services that help to improve the conditions of parents/guardians and families
- i. Provide a master calendar of district activities and district meetings
- j. Provide information about opportunities for parent involvement through the district newsletter, web site, or other written or electronic means
- k. Engage parent-teacher organizations to actively seek out and involve parents/guardians through regular communication updates and information sessions
- l. To the extent practicable, provide translation services at school sites and at meetings involving parents/guardians as needed
- m. Provide training and information to members of district and school site councils and advisory committees to help them fulfill their functions

PARENT INVOLVEMENT (continued)

- n. Regularly evaluate the effectiveness of staff development activities related to parent involvement
 - o. Include expectations for parent/guardian outreach and involvement in staff job descriptions and evaluations
4. The Superintendent or designee may:
- a. Identify overlapping or similar program requirements
 - b. Involve district and school site representatives from other programs to assist in identifying specific population needs
 - c. Schedule joint meetings with representatives from related programs and share data and information across programs
 - d. Develop a cohesive, coordinated plan focused on student needs and shared goals
5. Conduct, with involvement of parents/guardians, an annual evaluation of the content and effectiveness of the parent involvement policy in improving the academic quality of the schools served by Title I (20 USC 6318)

The Superintendent or designee shall:

- a. Ensure that the evaluation include the identification of barriers to greater participation in parent involvement activities, with particular attention to parents/guardians who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background (20 USC 6318)
- b. Use the evaluation results to design strategies for more effective parent involvement and, if necessary, to recommend changes in the parent involvement policy (20 USC 6318)
- c. Assess the district's progress in meeting annual objectives for the parent involvement program, notify parents/guardians of this review and assessment through regular school communications mechanisms, and provide a copy to parents/guardians upon their request (Education Code 11503)

PARENT INVOLVEMENT (continued)

6. Involve parents/guardians in the activities of schools served by Title I (20 USC 6318)

The Superintendent or designee may:

- a. Include information about school activities in district communications to parents/guardians
- b. To the extent practicable, assist schools with translation services or other accommodations needed to encourage participation of parents/guardians with special needs
- c. Establish processes to encourage parent/guardian input regarding their expectations and concerns for their children

The district's Board policy and administrative regulation containing parent involvement strategies shall be incorporated into the LEA plan and distributed to parents/guardians of students participating in Title I programs. (20 USC 6318)

School-Level Policies for Title I Schools

At each school receiving Title I funds, a written policy on parent involvement shall be developed jointly with and agreed upon by parents/guardians of participating students. Such policy shall describe the means by which the school will: (20 USC 6318)

1. Convene an annual meeting, at a convenient time, to which all parents/guardians of participating students shall be invited and encouraged to attend, in order to inform parents/guardians of their school's participation in Title I and to explain Title I requirements and the right of parents/guardians to be involved
2. Offer a flexible number of meetings, such as meetings in the morning or evening, for which related transportation, child care, and/or home visits may be provided as such services relate to parent involvement
3. Involve parents/guardians in an organized, ongoing, and timely way in the planning, review, and improvement of Title I programs, including the planning, review, and improvement of the school's parent involvement policy and, if applicable, the joint development of the plan for schoolwide programs pursuant to 20 USC 6314

The school may use an existing process for involving parents/guardians in the joint planning and design of the school's programs provided that the process includes adequate representation of parents/guardians of participating students.

PARENT INVOLVEMENT (continued)

4. Provide the parents/guardians of participating students all of the following:
 - a. Timely information about Title I programs
 - b. A description and explanation of the school's curriculum, forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet
 - c. If requested by parents/guardians, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions related to their children's education, and, as soon as practicably possible, responses to the suggestions of parents/guardians
5. If the schoolwide program plan is not satisfactory to the parents/guardians of participating students, submit any parent/guardian comments when the school makes the plan available to the district
6. Jointly develop with the parents/guardians of participating students a school-parent compact that outlines how parents/guardians, the entire school staff, and students will share responsibility for improved student academic achievement and the means by which the school and parents/guardians will build a partnership to help students achieve state standards

This compact shall address:

- a. The school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables participating students to achieve the state's student academic achievement standards
- b. Ways in which parents/guardians will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television viewing; volunteering in the classroom; and participating, as appropriate, in decisions related to their children's education and the positive use of extracurricular time
- c. The importance of communication between teachers and parents/guardians on an ongoing basis through, at a minimum:
 - (1) Parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as it relates to the student's achievement
 - (2) Frequent reports to parents/guardians on their children's progress

PARENT INVOLVEMENT (continued)

- (3) Reasonable access to staff, opportunities to volunteer and participate in their child's classroom, and observation of classroom activities
7. Build the capacity of the school and parents/guardians for strong parent involvement by implementing the activities described in items #3a-f in the section "District Strategies for Title I Schools" above
8. To the extent practicable, provide full opportunities for the participation of parents/guardians with limited English proficiency, parents/guardians with disabilities, and parents/guardians of migrant children, including providing information and school reports required under 20 USC 6311(h) in a format and language such parents/guardians can understand

If the school has a parent involvement policy that applies to all parents/guardians, it may amend that policy to meet the above requirements. (20 USC 6318)

Each school's parent involvement policy shall be made available to the local community and distributed to parents/guardians of participating students in an understandable and uniform format and, to the extent practicable, provided in a language the parents/guardians can understand. (20 USC 6318)

Each school receiving Title I funds shall annually evaluate the effectiveness of its parent involvement policy. Such evaluation may be conducted during the process of reviewing the school's single plan for student achievement in accordance with Education Code 64001.

The principal or designee, jointly with parents/guardians of participating students, shall periodically update the school's policy to meet the changing needs of parents/guardians and the school. (20 USC 6318)

District Strategies for Non-Title I Schools

For each school that does not receive federal Title I funds, the Superintendent or designee shall, at a minimum:

1. Engage parents/guardians positively in their children's education by helping them develop skills to use at home that support their children's academic efforts at school and their children's development as responsible members of society (Education Code 11502, 11504)

PARENT INVOLVEMENT (continued)

The Superintendent or designee may:

- a. Provide or make referrals to literacy training and/or parent education programs designed to improve the skills of parents/guardians and enhance their ability to support their children's education
 - b. Provide information, in parent handbooks and through other appropriate means, regarding academic expectations and resources to assist with the subject matter
 - c. Provide parents/guardians with information about students' class assignments and homework assignments
2. Inform parents/guardians that they can directly affect the success of their children's learning, by providing them with techniques and strategies that they may use to improve their children's academic success and to assist their children in learning at home (Education Code 11502, 11504)

The Superintendent or designee may:

- a. Provide parents/guardians with information regarding ways to create an effective study environment at home and to encourage good study habits
 - b. Encourage parents/guardians to monitor their children's school attendance, homework completion, and television viewing
 - c. Encourage parents/guardians to volunteer in their child's classroom and to participate in school advisory committees
3. Build consistent and effective communication between the home and school so that parents/guardians may know when and how to assist their children in support of classroom learning activities (Education Code 11502, 11504)

The Superintendent or designee may:

- a. Ensure that teachers provide frequent reports to parents/guardians on their children's progress and hold parent-teacher conferences at least once per year with parents/guardians of elementary school students
- b. Provide opportunities for parents/guardians to observe classroom activities and to volunteer in their child's classroom

PARENT INVOLVEMENT (continued)

- c. Provide information about parent involvement opportunities through district, school, and/or class newsletters, the district's web site, and other written or electronic communications
 - d. To the extent practicable, provide notices and information to parents/guardians in a format and language they can understand
 - e. Develop mechanisms to encourage parent/guardian input on district and school issues
 - f. Identify barriers to parent/guardian participation in school activities, including parents/guardians who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background
 - g. Encourage greater parent/guardian participation by adjusting meeting schedules to accommodate parent/guardian needs and, to the extent practicable, by providing translation or interpreter services, transportation, and/or child care
4. Train teachers and administrators to communicate effectively with parents/guardians (Education Code 11502, 11504)
- The Superintendent or designee may:
- a. Provide staff development to assist staff in strengthening two-way communications with parents/guardians, including parents/guardians who have limited English proficiency or limited literacy
 - b. Invite input from parents/guardians regarding the content of staff development activities pertaining to home-school communications
5. Integrate parent involvement programs into school plans for academic accountability
- The Superintendent or designee may:
- a. Include parent involvement strategies in school reform or school improvement initiatives
 - b. Involve parents/guardians in school planning processes

Board approved: September 12, 2013
Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

SCHOOL CALENDAR

The school calendar shall show the beginning and ending of school dates, legal and local holidays, orientation meeting days, number of teaching days, vacation periods, and other pertinent dates.

The Superintendent shall recommend to the Board of Trustees a school calendar that will meet the requirements of the law as well as the needs of the community, students, personnel and collectives bargaining.

The Board may declare a holiday in the schools under its jurisdiction when good reason exists.

*Legal Reference:*EDUCATION CODE*37200-37202 School calendar**37220-37223 Holidays**37252-37254.1 Summer school**37300-37307 Year-Round School Demonstration Project**37600-37672 Continuous school programs: year-round schools, especially:**37618 School calendar**37700-37711 Four-day week**41422 Schools not maintained for 175 days**41530-41532 Professional Development Block Grant**46200-46206 Incentives for longer instructional day and year**46300 Method of computing ADA**48980 Notice at beginning of term*REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS*44579-44579.6 Instructional Time and Staff Development Reform Program*ELECTIONS CODE*12283 School closures, election days*COURT DECISIONS*Butt v. State of California, (1992) 4 Cal 4th 668*PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS*Davis Joint Unified School District, (1984) PERB Decision No. 474*

CEREMONIES AND OBSERVANCES

The Board of Trustees recognizes the importance of having students observe holidays, celebrate events of cultural or historical significance, and acknowledge the contributions of outstanding individuals in society. On days designated by the Board, staff shall provide students with appropriate commemorative exercises so that they may acquire the knowledge, skills, and principles essential for informed, responsible citizenship in a democratic society.

*Legal Reference:*EDUCATION CODE*37220-37223 Saturdays and holidays**44015.1 Week of the School Administrator**45203 Paid holidays**45460 Classified Employee Week**52720 Daily performance of patriotic exercises in public schools**52730 Patriotic exercises, daily instruction*GOVERNMENT CODE*430-439 Display of flags**3540-3549.3 Meeting and negotiating*UNITED STATES CODE, TITLE 4*6 Time and occasion for display of flag**7 Position and manner of display of flag*UNITED STATES CODE, TITLE 36*106 Note Constitution Day and Citizenship Day*COURT DECISIONS*West Virginia State Board of Education et al v. Barnette et al, 319 U.S. 624 (1943)*

CEREMONIES AND OBSERVANCES**Holidays**

District schools shall be closed on the following holidays: (Education Code 37220)

New Year's Day	January 1
Dr. Martin Luther King Jr. Day	Third Monday in January or the Monday or Friday of the week in which January 15 occurs
Lincoln Day	The Monday or Friday of the week in which February 12 occurs
Washington Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	The Thursday in November designated by the President
Christmas Day	December 25

Holidays which fall on a Sunday shall be observed the following Monday. Holidays which fall on a Saturday shall be observed the preceding Friday. If any of the above holidays occurs under federal law on a date different from that indicated above, the Board may close the school on the date recognized by federal law instead of on the date above. (Education Code 37220)

Commemorative Exercises

District schools shall hold exercises in accordance with law to commemorate the following special days: (Education Code 37220, 37221, 45460)

U.S. Constitution and Citizenship Day	On or near September 17
Dr. Martin Luther King, Jr. Day	The Friday before the day schools are closed for this holiday
Abraham Lincoln's Birthday	The school day before the day schools are closed for this holiday
Susan B. Anthony Day	February 15

CEREMONIES AND OBSERVANCES (continued)

George Washington's Birthday	The Friday preceding the third Monday in February
Black American Day	March 5
Conservation, Bird, and Arbor Day	March 7
Classified Employee Week	Third week in May

Commemorative exercises shall be integrated into the regular educational program to the extent feasible.

Patriotic Exercises

Each school shall conduct patriotic exercises daily. These patriotic exercises shall consist of the reciting of the Pledge of Allegiance and may also include instruction that promotes understanding of the concepts of "pledge," "allegiance," "republic," and "indivisible" and understanding of the importance of the pledge as an expression of patriotism, love of country, and pride in the United States. (Education Code 52720, 52730)

At elementary schools, such exercises shall be conducted at the beginning of each school day. (Education Code 52720)

At secondary schools, such exercises shall be conducted during the homeroom period.

Individuals may choose not to participate in the flag salute for personal reasons.

Display of Flag

The flag of the United States and the flag of California shall be displayed during business hours at the entrance or on the grounds of every district school and on or near the district office. At all times, the national flag shall be placed in the position of first honor. (Government Code 431, 436; 4 USC 6)

When displayed on a building or on a flagstaff in the open, the national flag shall be displayed only from sunrise to sunset unless properly illuminated during the hours of darkness. The flag should not be displayed during inclement weather unless an all-weather flag is used. (4 USC 6)

CEREMONIES AND OBSERVANCES (continued)

The national flag shall fly at half-staff on the following occasions: (4 USC 7)

1. For 30 days from the death of the President or a former President
2. For 10 days from the death of the Vice President, the Chief Justice or a retired Chief Justice, or the Speaker of the House of Representatives
3. From the day of death until interment of an Associate Justice of the Supreme Court, a secretary of an executive or military department, former Vice President, or the Governor of a state
4. On the day of death and the following day for a Member of Congress
5. On Memorial Day, until noon only
6. On Peace Officers Memorial Day (May 15), unless it falls on Armed Forces Day
7. Upon a proclamation from the Governor in the event of the death of a present or former official of the state government or a member of the Armed Forces from the state who has died while serving on active duty
8. On other occasions by order of the President and in accordance with presidential instructions or orders

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EVERGREEN SCHOOL DISTRICT
San Jose, California

ORGANIZATIONAL PLANS

The Board of Trustees of the district, at present, has organized its schools on a K-6, and 7-8 programs basically. Such other plans as K-6, K-5, and 6-8 have been used for specific short-term purposes. School organization is related directly to student needs.

School Organization: K-6

The basic organizational plan of the district is that of the graded classroom and graded school. Within this concept the self-contained classroom is the most common organizational pattern. The two-teacher team is also used in those schools having facilities suited to this type of organization. Some of the two-teacher teams are organized on a multi-grade basis or are non-graded. Schools designed with an open space concept through joint planning of the principal and staff may develop an organization suited to these needs.

School Organization: 7-8

The intermediate school is organized on a departmental basis. The structure includes regular classrooms, vocal and instrumental music rooms, as well as a library-office unit, a cafeteria-multi-purpose building, and a shower-locker building.

CURRICULUM DEVELOPMENT AND EVALUATION

The Board of Trustees desires to provide a research-based, sequential curriculum which promotes high levels of student achievement and emphasizes the development of basic skills, problem solving, and decision making. Upon recommendation of the Superintendent or designee, the Board shall adopt a written district curriculum which describes, for each subject area and grade level, the content objectives which are to be taught in all district schools.

The district's curriculum shall be aligned with the district's vision and goals for student learning, Board policies, academic content standards, state curriculum frameworks, state and district assessments, graduation requirements, school and district improvement plans, and, when necessary, related legal requirements.

The Superintendent or designee shall establish a process for curriculum development, selection, and/or adaptation which utilizes the professional expertise of teachers, principals, and district administrators representing various grade levels, disciplines, special programs, and categories of students as appropriate. The process also may provide opportunities for input from students, parents/guardians, representatives of local businesses and postsecondary institutions, and other community members.

*Legal Reference:*EDUCATION CODE*221.5 Equal opportunity**35160 Authority of governing boards**35160.1 Broad authority of school districts**51050-51057 Enforcement of courses of study**51200-51263 Required courses of study**51500-51540 Prohibited instruction**51720-51879.9 Authorized classes and courses of instruction**60000-60424 Instructional materials*GOVERNMENT CODE*3543.2 Scope of representation*CODE OF REGULATIONS, TITLE 5*4000-4091 School improvement programs**4400-4426 Improvement of elementary and secondary education*

CURRICULUM DEVELOPMENT AND EVALUATION**Curriculum Review Committee**

The Superintendent or designee may establish a curriculum review committee to evaluate and recommend curriculum for Board of Trustees approval. This committee shall consist of a majority of teachers and may also include administrators, other staff who have subject-matter expertise, parents/guardians, representatives of local businesses and postsecondary institutions, other community members, and students as appropriate. This committee may be the same committee charged with the evaluation and recommendation of instructional materials pursuant to Board policy and administrative regulation.

Curriculum Development/Selection Process

The Superintendent or designee shall research and identify available curriculum in the subject area(s) and grade level(s) scheduled for review. He/she may select a limited number of programs to present to the curriculum review committee for evaluation.

The committee shall recommend the curriculum that best meets the district's needs based on the following criteria and any additional factors deemed relevant by the committee:

1. Analysis of the effectiveness of the existing district curriculum for all students, including student achievement data disaggregated by grade level and student population
2. Applicability and accessibility of the curriculum to all students, including, but not limited to, underperforming students, students with disabilities, English learners, and gifted and talented students
3. If the curriculum includes instructional materials, the extent to which the materials meet criteria established by law and the district

Instruction**Sexual Health And HIV/AIDS Prevention Instruction**

The Governing Board desires to provide a well-planned, integrated sequence of medically accurate and inclusive instruction on comprehensive sexual health and human immunodeficiency virus (HIV) prevention. The district's educational program shall provide students with the knowledge and skills necessary to protect them from sexually transmitted infections and unintended pregnancy and to have healthy, positive, and safe relationships and behaviors. The district's educational program shall also promote understanding of sexuality as a normal part of human development and the development of healthy attitudes and behaviors concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family.

Comprehensive sexual health education and HIV prevention education shall be offered to all students in grades 7-12, including at least once in junior high or middle school and at least once in high school. (Education Code 51934)

The district's curriculum shall support the purposes of the California Healthy Youth Act as specified in Education Code 51930-51939, be unbiased and inclusive of all students in the classroom, and be aligned with the state's content standards. The district shall respect the rights of parents/guardians to supervise their children's education on these subjects and to impart values regarding human sexuality to their children.

The Superintendent or designee may appoint a coordinator and/or an advisory committee regarding the district's comprehensive sexual health and HIV prevention curriculum. The advisory committee shall represent a divergence of viewpoints and may participate in planning, implementing, and evaluating the district's program.

Parent/Guardian Consent

Annually, parents/guardians shall be notified, in the manner specified in the accompanying administrative regulation, that they may request in writing that their child be excused from participating in comprehensive sexual health and HIV prevention education. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51938, 51939)

A student shall not be subject to disciplinary action, academic penalty, or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51939)

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

33544 Inclusion of sexual harassment and violence in health curriculum framework

48980 Notice at beginning of term

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51225.35 Instruction in sexual harassment and violence; districts that require health education for graduation

51240 Excuse from instruction due to religious beliefs

51513 Materials containing questions about beliefs or practices

51930-51939 California Healthy Youth Act

67386 Student safety; affirmative consent standard

HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

UNITED STATES CODE, TITLE 20

1232h Protection of student rights

7906 Sex education

Policy Board Approved:

March 8, 2018

EVERGREEN SCHOOL DISTRICT

San Jose, CA

HIV/AIDS PREVENTION INSTRUCTION

The Board of Trustees recognizes that accurate information about family life and human sexuality may contribute to a decreased risk for sexually transmitted diseases or unintended pregnancies. The Board also recognizes that Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) pose a public health crisis and that education is a necessary component for helping to slow the spread of this disease. The Board therefore desires to provide a well-planned sequence of instruction on comprehensive sexual health and HIV/AIDS prevention.

The district's curriculum shall be based on medically accurate and factual information and shall help students understand the biological, psychological and social aspects of human sexuality. The district's program shall comply with the requirements of law and administrative regulation and shall respect the rights of parents/guardians to supervise their children's education on these subjects and parents/guardians to impart values regarding human sexuality to their children.

Parent/Guardian Notification and Excuse

At the beginning of each school year, or at the time of a student's enrollment, parents/guardians shall be notified about instruction in comprehensive sexual health education and HIV/AIDS prevention education, as well as research on student health behaviors and risks, planned for the coming year. The notice shall advise parents/guardian: (Education Code 48980, 51938)

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV/AIDS prevention education are available for inspection.
2. That parents/guardians may request in writing that their child not receive comprehensive sexual health or HIV/AIDS prevention education.
3. That parents/guardians have a right to request a copy of Education Code 51930-51938.
4. Whether the comprehensive sexual health or HIV/AIDS prevention education will be taught by district personnel or outside consultants.

If the district chooses to use outside consultants or to hold an assembly with guest speakers to teach the comprehensive sexual health or HIV/AIDS prevention education, the notification shall include: (Education Code 51938)

1. The date of the instruction.
2. The name of the organization or affiliation of each guest speaker.
3. Information stating the right of the parent/guardian to request a copy of Education Code 51933-51934.

HIV/AIDS PREVENTION INSTRUCTION (continued)

If the arrangements for instruction by outside consultants or guest speakers are made after the beginning of the school year, the district shall notify parents/guardians by mail or another commonly used method of notification no fewer than 14 days before the instruction is given. (Education Code 51938)

Upon written request, a parent/guardian may excuse his/her child from participating in comprehensive sexual health or HIV/AIDS prevention education or from participating in questionnaires or surveys regarding health behaviors and risks. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51939)

A student shall not be subject to disciplinary action, academic penalty, or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51939)

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

48980 Notice at beginning of term

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51240 Excuse from instruction due to religious beliefs

51513 Materials containing questions about beliefs or practices

51930-51939 Comprehensive Sexual Health and HIV/AIDS Prevention Education Act

HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

UNITED STATES CODE, TITLE 20

1232h Protection of student rights

7906 Sex education

Instruction

AR 6142 (a)

Sexual Health And HIV/AIDS Prevention Instruction

Definitions

Comprehensive sexual health education means education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections. (Education Code 51931)

HIV prevention education means instruction on the nature of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS. (Education Code 51931)

Age appropriate refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. (Education Code 51931)

Medically accurate means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. (Education Code 51931)

General Criteria for Instruction and Materials

The Superintendent or designee shall ensure that the district's comprehensive sexual health and HIV prevention instruction and materials: (Education Code 51933)

1. Are age appropriate
2. Are factually and medically accurate and objective
3. Align with and support the following purposes as specified in Education Code 51930:
 - a. To provide students with the knowledge and skills necessary to protect their sexual and reproductive health from HIV and other sexually transmitted infections and from unintended pregnancy
 - b. To provide students with the knowledge and skills they need to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family
 - c. To promote understanding of sexuality as a normal part of human development
 - d. To ensure students receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end
 - e. To provide students with the knowledge and skills necessary to have healthy, positive, and safe relationships and behaviors

Sexual Health And HIV/AIDS Prevention Instruction (continued)

AR 6142 (b)

4. Are appropriate for use with students of all races, genders, sexual orientations, and ethnic and cultural backgrounds; students with disabilities; and English learners
5. Are available on an equal basis to a student who is an English learner, consistent with the existing curriculum and alternative options for an English learner as otherwise provided in the Education Code
6. Are accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids
7. Do not reflect or promote bias against any person in protected categories of discrimination pursuant to Education Code 220
8. Affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same-sex relationships
9. Teach students about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes
10. Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so
11. Teach the value of and prepare students to have and maintain committed relationships such as marriage
12. Provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, and intimidation
13. Provide students with knowledge and skills for making and implementing healthy decisions about sexuality, including negotiation and refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities
14. Do not teach or promote religious doctrine

Components of Sexual Health and HIV Prevention Education

The district's comprehensive sexual health education and HIV prevention education for students in grades 7-12, in addition to complying with the criteria listed above in the section "General Criteria for Instruction and Materials," shall include all of the following: (Education Code 51934)

1. Information on the nature of HIV and other sexually transmitted infections and their effects on the human body
2. Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual behaviors and injection drug use
3. Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections, and that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy

Sexual Health And HIV/AIDS Prevention Instruction (continued)

AR 6142 (C)

The instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.

4. Information about the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the Centers for Disease Control and Prevention

5. Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing

6. Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others

7. Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV

This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and that testing is the only way to know if one is HIV-positive

8. Information about local resources, how to access local resources, and students' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence

9. Information about the effectiveness and safety of FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to:

a. Parenting, adoption, and abortion

b. Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5

c. The importance of prenatal care

10. Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking

Professional Development

The district's comprehensive sexual health education and HIV prevention education shall be provided by instructors trained in the appropriate courses who are knowledgeable of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections. (Education Code 51931, 51933, 51934)

The Superintendent or designee shall cooperatively plan and conduct in-service training for all district personnel who provide HIV prevention education, through regional planning, joint powers agreements, or contract services. (Education Code 51935)

Sexual Health And HIV/AIDS Prevention Instruction (continued)

AR 6142 (d)

In developing and providing in-service training, the Superintendent or designee shall cooperate and collaborate with the teachers who provide HIV prevention education and with the California Department of Education (CDE). (Education Code 51935)

The district shall periodically conduct in-service training to enable district personnel to learn new developments in the scientific understanding of HIV. In-service training shall be voluntary for personnel who have demonstrated expertise or received in-service training from the CDE or Centers for Disease Control and Prevention. (Education Code 51935)

The Superintendent or designee may expand HIV in-service training to cover the topic of comprehensive sexual health education for district personnel teaching comprehensive sexual health education to learn new developments in the scientific understanding of sexual health. (Education Code 51935)

Use of Consultants or Guest Speakers

The Superintendent or designee may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health and HIV prevention education or to provide training for district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and knowledge of the most recent medically accurate research on the relevant topic(s) covered in the instruction. The Superintendent or designee shall ensure that any instruction provided by an outside speaker or consultant complies with Board policy, administrative regulation, and Education Code 51930-51939. (Education Code 51933, 51934, 51936)

Parent/Guardian Notification

At the beginning of each school year or at the time of a student's enrollment, the Superintendent or designee shall notify parents/guardians about instruction in comprehensive sexual health education and HIV prevention education, as well as research on student health behaviors and risks, planned for the coming year. The notice shall advise parents/guardians: (Education Code 48980, 51938)

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV prevention education are available for inspection
2. That parents/guardians have a right to excuse their child from comprehensive sexual health or HIV prevention education, or research on student health behaviors and risks, provided they submit their request in writing to the district
3. That parents/guardians have a right to request a copy of Education Code 51930-51939
4. Whether the comprehensive sexual health or HIV prevention education will be taught by district personnel or outside consultants

If the district chooses to use outside consultants or to hold an assembly with guest speakers to deliver comprehensive sexual health or HIV prevention education, the notification shall include: (Education Code 51938)

- a. The date of the instruction
- b. The name of the organization or affiliation of each guest speaker
- c. Information stating the right of the parent/guardian to request a copy of Education Code 51933, 51934, and 51938

Sexual Health And HIV/AIDS Prevention Instruction (continued)

AR 6142 (e)

If the arrangements for instruction by outside consultants or guest speakers are made after the beginning of the school year, the Superintendent or designee shall notify parents/guardians by mail or another commonly used method of notification no fewer than 14 days before the instruction is given. (Education Code 51938)

Nonapplicability to Certain Instruction or Materials

The requirements of Education Code 51930-51939 pertaining to instructional content, teacher training, and parental notification and consent shall not apply to the following: (Education Code 51932)

1. A description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, if the textbook does not include other elements of comprehensive sexual health education or HIV prevention education
2. Instruction or materials that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions

Regulation
adopted: March 21, 2013
Regulation revised:
March 8, 2018

EVERGREEN SCHOOL DISTRICT
San Jose, CA

PHYSICAL EDUCATION AND ACTIVITY

The Board of Trustees recognizes the positive benefits of physical activity on student health and academic achievement. The district shall provide all students the opportunity to be physically active on a regular basis through high-quality physical education instruction and may provide additional opportunities for physical activity throughout the school day. The district's physical education and activity programs shall support the district's coordinated student wellness program and encourage students' lifelong fitness.

The district's physical education program shall provide a developmentally appropriate sequence of instruction aligned with the state's model content standards and curriculum framework. The Superintendent or designee shall ensure that the district's program provides students with equal opportunities for instruction and participation regardless of gender in accordance with law.

During air pollution episodes, extreme weather, or other inclement conditions, physical education staff shall make appropriate adjustments to the program or shall seek alternative indoor space to enable students to participate in active physical education.

Physical Fitness Testing

The Superintendent or designee shall annually administer the physical fitness test designated by the State Board of Education to students in grades 5 and 7. (Education Code 60800; 5 CCR 1041)

Temporary Exemptions

The Superintendent or designee may grant a temporary exemption from physical education under either of the following conditions: (Education Code 51241)

1. The student is ill or injured and a modified program to meet his/her needs cannot be provided.
2. The student is enrolled for one-half time or less.

Additional Opportunities for Physical Activity

The Superintendent or designee shall develop strategies to supplement physical education instruction with additional opportunities for students to be physically active before, during, and after the school day.

Legal Reference: (see next page)

PHYSICAL EDUCATION AND ACTIVITY (continued)

Legal Reference:

EDUCATION CODE

33126 *School accountability report card*
33350-33354 *CDE responsibilities re: physical education*
35256 *School accountability report card*
49066 *Grades; physical education class*
51210 *Course of study, grades 1-6*
51220 *Course of study, grades 7-12*
51222 *Physical education*
51223 *Physical education, elementary schools*
51241 *Temporary, two-year or permanent exemption from physical education*
51242 *Exemption from physical education for athletic program participants*
52316 *Excuse from attending physical education classes*

60800 *Physical performance test*

CODE OF REGULATIONS, TITLE 5

1040-1048 *Physical performance test*
3051.5 *Adapted physical education for individuals with exceptional needs*
10060 *Criteria for high school physical education programs*

UNITED STATES CODE, TITLE 29

794 *Rehabilitation Act of 1973, Section 504*

UNITED STATES CODE, TITLE 42

1751 *Note Local wellness policy*

ATTORNEY GENERAL OPINIONS

53 *Ops.Cal.Atty.Gen. 230 (1970)*

PHYSICAL EDUCATION AND ACTIVITY**Definitions**

Physical education is a sequential educational program that teaches students to understand and participate in regular physical activity for developing and maintaining physical fitness throughout their lifetimes, understand and improve their motor skills, enjoy using their skills and knowledge to establish a healthy lifestyle, and understand how their bodies work.

Instructional Time

Instruction in physical education shall be provided for a total period of time of not less than 200 minutes each 10 school days. (Education Code 51210, 51223)

Physical Fitness Testing

During the annual assessment window between the months of February through May, students in grades 5 and 7 shall be administered the physical fitness test designated by the State Board of Education. (Education Code 60800; 5 CCR 1041)

The Superintendent or designee may provide a make-up date for students who are unable to take the test based on absence or temporary physical restriction or limitations, such as students recovering from illness or injury. (5 CCR 1043)

Additional Opportunities for Physical Activity

The Superintendent or designee shall implement strategies for increasing opportunities for physical activity outside the physical education program, which may include, but not be limited to:

1. Training recess and lunch supervisors on methods to engage students in moderate to vigorous physical activity
2. Encouraging teachers to incorporate physical activity into the classroom
3. Establishing extracurricular activities that promote physical activity, such as school clubs, intramural athletic programs, dance performances, special events, and competitions
4. Incorporating opportunities for physical activity into before- or after-school programs and/or child care and development programs
5. Developing programs to encourage and facilitate walking, bicycling, or other active transport to and from school

COURSES OF STUDY

The Board of Trustees recognizes that a well-aligned sequence of courses fosters academic progress and provides for the best possible use of instructional time. The district's course of study shall provide students with opportunities to attain the skills, knowledge, and abilities they need to be successful in school, college, and the workplace.

Elementary Grades

The Board shall adopt a course of study for elementary grades that sufficiently prepares students for the secondary course of study.

*Legal Reference:*EDUCATION CODE*33319.3 Driver education; CDE materials on road rage**33540 Government and civics instruction in interaction with government agencies**48980 Parental notifications**51202 Instruction in personal and public health and safety**51203 Instruction on alcohol, narcotics and restricted dangerous drugs**51204 Course of study designed for student's needs**51204.5 Social science instruction; history of California; contributions of various groups**51210-51212 Course of study for grades 1-6**51220-51229 Course of study for grades 7-12**51241 Exemption from physical education**51911-51921 Comprehensive health education**51930-51939 Comprehensive sexual health and HIV/AIDS prevention instruction**51940 Curriculum for brain and spinal cord injury prevention**53278-53280 Supplemental School Counseling Program**60040-60052 Requirements for instructional materials**66204 Certification of high school courses as meeting university admission criteria*HEALTH AND SAFETY CODE*11032 Definition of dangerous drugs*CODE OF REGULATIONS, TITLE 5*10020-10049 Automobile driver education and training**10060 Physical education program*UNITED STATES CODE, TITLE 20*6101-6251 School-to-Work Opportunities Act of 1994*

EXTRACURRICULAR AND COCURRICULAR ACTIVITIES

The Board of Trustees recognizes that extracurricular and cocurricular activities enrich the educational and social development of students and enhance students' feelings of connectedness with the schools. The district shall encourage and support student participation in extracurricular and cocurricular activities without compromising the integrity and purpose of the educational program.

No extracurricular or cocurricular program or activity shall be provided or conducted separately on the basis of any actual or perceived characteristic listed as a prohibited category of discrimination in state or federal law, nor shall any student's participation in an extracurricular or cocurricular activity be required or refused on those bases. Prerequisites for student participation in extracurricular and cocurricular activities shall be limited to those that have been demonstrated to be essential to the success of the activity. (5 CCR 4925)

Any complaint alleging unlawful discrimination in the district's extracurricular or cocurricular programs or activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

Unless specifically authorized by law, no fee shall be charged to students for participation in extracurricular and cocurricular activities related to the educational program, including materials or equipment related to the activity.

Eligibility Requirements

To be eligible to participate in extracurricular and cocurricular activities, students in grades 7-8 must demonstrate satisfactory educational progress in the previous grading period, including, but not limited to maintenance of a minimum of 2.0 grade point average on a 4.0 scale in all enrolled classes during the preceding grading period with no "F" grades. (Education Code 35160.5)

The Superintendent or designee may grant ineligible students a probationary period not to exceed one semester. Students granted probationary eligibility must meet the required standards by the end of the probationary period in order to remain eligible for participation. (Education Code 35160.5)

Any decision regarding the eligibility of any child in foster care or a child of an active duty military family for extracurricular or cocurricular activities shall be made by the Superintendent or designee in accordance with Education Code 48850 and 49701.

The Superintendent or designee may revoke a student's eligibility for participation in extracurricular and cocurricular activities when the student's poor citizenship is serious enough to warrant loss of this privilege.

EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)**Student Conduct at Extracurricular/Cocurricular Events**

When attending or participating in extracurricular and cocurricular activities on or off campus, district students are subject to district policies and regulations relating to student conduct. Students who violate district policies and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, or denial of participation in extracurricular or cocurricular activities in accordance with Board policy and administrative regulation. When appropriate, the Superintendent or designee shall notify local law enforcement.

*Legal Reference:*EDUCATION CODE*35145 Public meetings**35160.5 District policy rules and regulations; requirements; matters subject to regulation**35179 Interscholastic athletics; associations or consortia**35181 Students' responsibilities**48850 Participation of foster youth in extracurricular activities and interscholastic sports**48930-48938 Student organizations**49024 Activity Supervisor Clearance Certificate**49700-49704 Education of children of military families*CALIFORNIA CONSTITUTION*Article 9, Section 5 Common school system*CODE OF REGULATIONS, TITLE 5*350 Fees not permitted**4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance**5531 Supervision of extracurricular activities of pupils*UNITED STATES CODE, TITLE 42*2000h-2-2000h-6 Title IX, 1972 Education Act Amendments*COURT DECISIONS*Hartzell v. Connell, (1984) 35 Cal. 3d 899*

EXTRACURRICULAR AND COCURRICULAR ACTIVITIES

In order to be eligible for participation in extracurricular/co-curricular activities, a student in the middle schools shall have earned a minimum cumulative 2.0 grade point average in all enrolled courses on a 4.0 scale during the preceding grading period with no "F" grades.

Transfer Students

All transfer students will be required to meet district requirements at the time of matriculation. Eligibility may be determined by the grades from their previous school or, if necessary, after receiving their first progress report or report card.

Eligibility Requirements

When a student becomes ineligible to participate in extracurricular or cocurricular activities in the upcoming grading period, or when he/she is subject to probation, the principal or designee shall provide written notice to the student and his/her parent/guardian.

Eligibility: Seasonal Activities (all sports and 4-8 week activities)

The following procedures are for seasonal activities:

1. Each student is notified of the eligibility requirements at the beginning of each season.
2. Any student may be selected for team play during the first four weeks of a season.
3. On the next issuance of an official grade report or progress report, or at the second official grade report if two reports are given in a season, students not meeting grade requirements are excluded for the balance of a season.
4. All students will be held to the same standards.

Eligibility: Year-Long Activities (except Student Body Officers)

The following procedures are for year-long activities:

1. All students may participate during the first quarter of the school year.
2. At the issuance of the first quarter of an official grade report, students not meeting grade requirements are placed on probation for up to four and one-half weeks.
3. Students are eligible to fully participate during probation.
4. Students are ineligible for remainder of school year if not eligible after one (1) probation or when becoming ineligible any time after the first semester.
5. Exceptions may be made by the principal for one (1) probation period (4-1/2 weeks).

EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)

Supervision

Extracurricular/co-curricular activities shall be under the general supervision of school authorities and certificated employees whenever they are conducted under the name of the school district.

ATHLETIC COMPETITION

The Board of Trustees recognizes that the district's athletic program constitutes an integral component of the educational program and helps to build a positive school climate. The athletic program also promotes the physical, social, and emotional well-being and character development of participating students. The athletic program shall be designed to meet students' interests and abilities and shall be varied in scope to attract wide participation.

All athletic teams shall be supervised by qualified coaches to ensure that student athletes receive appropriate instruction and guidance related to safety, health, sports skills, and sportsmanship. Athletic events shall be officiated by qualified personnel.

Nondiscrimination and Equivalent Opportunities in the Athletic Program

The district's athletic program shall be free from discrimination and discriminatory practices prohibited by state and federal law. The Superintendent or designee shall ensure that equivalent athletic opportunities are provided for males and females.

Any complaint regarding the district's athletic program shall be filed in accordance with the district's uniform complaint procedures.

Student Eligibility

Students shall not be charged a fee to participate in an athletic program.

Sportsmanship

The Board values the quality and integrity of the athletic program and the character development of student athletes. Student athletes, coaches, parents/guardians, spectators, and others are expected to demonstrate good sportsmanship, ethical conduct, and fair play during all athletic competitions.

Students and staff may be subject to disciplinary action for improper conduct.

Health and Safety

The Board desires to give student health and safety the highest consideration in planning and conducting athletic activities.

Care shall be taken to ensure that all athletic trainings and competitions are conducted in a manner that will not overtax the physical capabilities of the participants. When appropriate, protective equipment shall be used to prevent or minimize injuries.

ATHLETIC COMPETITION (continued)

Coaches and appropriate district employees shall take every possible precaution to ensure that athletic equipment is kept in safe and serviceable condition. The Superintendent or designee shall ensure that all athletic equipment is cleaned and inspected for safety before the beginning of each school year.

In the event that an injury occurs, the coach or other appropriate district employee shall observe universal precautions and shall remove the student athlete from the activity and/or seek medical treatment for the student as appropriate.

Legal Reference: (see next page)

ATHLETIC COMPETITION (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

270-271 Athletes' Bill of Rights

17578 Cleaning and sterilizing of football equipment

17580-17581 Football equipment

32221.5 Required insurance for athletic activities

33353-33353.5 California Interscholastic Federation; implementation of policies, insurance program

33354 California Department of Education authority over interscholastic athletics

35160.5 District policies; rules and regulations

35179 Interscholastic athletics

48850 Interscholastic athletics; students in foster care

48900 Grounds for suspension and expulsion

48930-48938 Student organizations

49020-49023 Athletic programs; legislative intent, equal opportunity

49030-49034 Performance-enhancing substances

49458 Health examinations, interscholastic athletic program

49475 Health and safety, concussions and head injuries

49700-49701 Education of children of military families

51242 Exemption from physical education for high school students in interscholastic athletic program

PENAL CODE

245.6 Hazing

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs, especially:

4920-4922 Nondiscrimination in intramural, interscholastic, and club activities

5531 Supervision of extracurricular activities of students

5590-5596 Employment of noncertificated coaches

UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

CODE OF FEDERAL REGULATIONS, TITLE 34

106.31 Nondiscrimination on the basis of sex in education programs or activities

106.33 Comparable facilities

106.41 Nondiscrimination in athletic programs

COURT DECISIONS

Mansourian v. Regents of University of California, (2010) 594 F. 3d 1095

Kahn v. East Side Union High School District, (2004) 31 Cal. 4th 990t

McCormick v. School District of Mamaroneck, (2004) 370 F.3d 275

Hartzell v. Connell, (1984) 35 Cal. 3d 899

ATHLETIC COMPETITION**Nondiscrimination and Equivalent Opportunities in the Athletic Program**

No person shall be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic, intramural, or club athletics on the basis of actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, or any other basis specified in law. (Education Code 220, 230; 5 CCR 4920; 34 CFR 106.41)

Each student shall be allowed to participate in any single-sex athletic program or activity consistent with his/her gender identity and for which he/she is otherwise eligible to participate, irrespective of the gender listed on the student's records.

When a school provides only one team in a particular sport for members of one sex, but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have been previously limited, members of the excluded sex shall be allowed to try out and compete with the team. The same standards for eligibility shall be applied to every student trying out for the team, regardless of sex, sexual orientation, gender, gender identity, gender expression, or other protected group status. (5 CCR 4921; 34 CFR 106.41)

When determining whether equivalent opportunities are available to both sexes in athletic programs, the Superintendent or designee shall consider, among other factors: (5 CCR 4922; 34 CFR 106.41)

1. Whether the selection of sports and levels of competition offered effectively accommodate the interests and abilities of both sexes

The athletic program shall be considered to effectively accommodate the interests and abilities of both sexes if it meets one of the following criteria: (Education Code 230)

- a. The interscholastic-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.
- b. When the members of one sex have been and are underrepresented among interscholastic athletes, the district can show a history and a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex.

ATHLETIC COMPETITION (continued)

- c. When the members of one sex are currently underrepresented among interscholastic athletes and the district cannot show a history and continuing practice of program expansion as required in item #b above, the district can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.
2. The provision and maintenance of equipment and supplies
3. Scheduling of games and practice times, selection of the season for a sport, and location of the games and practices
4. Travel and per diem allowances
5. Opportunities to receive coaching and academic tutoring
6. Assignment and compensation of coaches and tutors
7. Provision of locker rooms and practice and competitive facilities
8. Provision of medical and training facilities and services
9. Provision of housing and dining facilities and services
10. Publicity
11. Provision of necessary funds

Health and Safety

The Superintendent or designee shall annually distribute to student athletes and their parents/guardians an information sheet on concussions and head injuries. The student and parent/guardian shall sign and return the information sheet before the student's initiating practice or competition. (Education Code 49475)

If a student athlete is suspected of sustaining a concussion or head injury in an athletic activity, he/she shall be immediately removed from the activity for the remainder of the day. The student shall not be permitted to return to the activity until he/she is evaluated by a licensed health care provider trained in the management of concussions and receives the health care provider's written clearance to return to the activity. (Education Code 49475)

The Superintendent or designee shall notify the student's parent/guardian of the date, time, and extent of any injury suffered by the student and any actions taken to treat the student.

The Superintendent or designee shall provide training to coaches, athletic trainers, and/or school nurses regarding concussion symptoms, prevention, and appropriate response.

ATHLETIC COMPETITION (continued)

Parental Notifications

Before a student participates in athletic activities, the Superintendent or designee shall send a notice to the student's parents/guardians which:

1. Contains information about the procedures for filing a discrimination complaint that arises out of an interscholastic athletic activity, including the name of the district's Title IX Coordinator
2. Includes a copy of the Athletes' Bill of Rights pursuant to Education Code 271
3. Explains that there is an element of risk associated with all athletic competitions and that the district cannot guarantee that students will not be injured, despite a commitment to every participant's health and welfare
4. Provides information about insurance protection pursuant to Education Code 32221.5
5. Requests parental permission for the student to participate in the program and, if appropriate, be transported by the district to and from competitions
6. States the Governing Board's expectation that students adhere strictly to all safety rules, regulations, and instructions, as well as rules and guidelines related to conduct and sportsmanship

Revised: May 1, 2014
Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

STUDENT ORGANIZATIONS AND EQUAL ACCESS

School Sponsorship

School-sponsored student organizations must be organized at the school, have a certificated advisor, be composed completely of current student body members, and be approved by the Superintendent or designee in accordance with Board of Trustees policy. They shall hold the majority of their meetings at school and have a democratic plan for the selection of officers. Organization activities shall not conflict with the authority and responsibilities of school officials.

The principal or designee shall direct any group of students seeking recognition as a student organization to submit a district-approved application form, which includes the following information:

1. Name of the organization and names of student contacts.
2. A statement of the organization's purposes, objectives, and activities.
3. Name of staff sponsor and a description of the function of staff adviser in the promotion, supervision, and leadership of the group. The principal shall have final authority in determining the assignment and role of the staff adviser.
4. The proposed dates, times, and location of meetings.
5. Any special equipment to be used.
6. A description of the qualifications for membership, if any.
7. If a curriculum-related group, a statement of the relation of the club to the curriculum and/or instructional program.

The principal or designee shall establish school rules governing the meetings of curriculum-related groups. Such rules may vary depending on the circumstances that apply, such as whether or not academic credit is given for participation in the group.

The Superintendent or designee shall identify the noninstructional time period(s) set aside for noncurriculum-related student organization meetings before or after actual classroom instruction times. Meetings may also be held during the lunch hour.

STUDENT ORGANIZATIONS AND EQUAL ACCESS (continued)

The following criteria must be met for these meetings: (20 USC 4071, 4072)

1. The meeting shall be voluntary and student-initiated.
2. There shall be no sponsorship of the meeting by the school or staff. The school or staff shall not promote, lead, or participate in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes shall not constitute sponsorship of the meeting.
3. Employees of the school shall be present at religious meetings only in a nonparticipatory capacity.
4. The meeting shall not materially and substantially interfere with the orderly conduct of educational activities within the school.
5. Non-school persons shall not direct, conduct, control, or regularly attend activities of student groups.

School staff may be assigned voluntarily to observe meetings for purposes of maintaining order and protecting student safety. Students shall leave the meeting place in a clean, orderly and secure condition after their meetings.
(20 USC 4071)

The Superintendent may deny the use of facilities to any groups that he/she believes will disrupt the school program or threaten the health and safety of students and staff.
(20 USC 4071)

Meetings held within the limited open forum shall entail no expenditure of public funds beyond the incidental cost of providing the meeting space.
(20 USC 4071(d))

Legal Reference: (see next page)

STUDENT ORGANIZATIONS AND EQUAL ACCESS (continued)

Legal Reference:

EDUCATION CODE

52 *Designation of secondary schools*

53 *Designation of high schools*

200-262.3 *Prohibition of discrimination on the basis of sex*

38130-38138 *Civic Center Act*

48900 *Hazing*

48907 *Student exercise of free expression*

48930-48938 *Student organizations*

48950 *Freedom of speech*

49020-49023 *Athletic programs*

PENAL CODE

627-627.10 *Access to school premises*

CODE OF REGULATIONS, TITLE 5

2 Definitions

5531 *Supervision of extracurricular activities of students*

UNITED STATES CODE, TITLE 20

4071-4074 *Equal Access Act*

7904 *School prayer*

7905 *Boy Scouts equal access*

UNITED STATES CODE, TITLE 36

20101-240112 *Patriotic organizations*

COURT DECISIONS

Prince v. Jacoby, (2001) 303 F.3d 1074

Culbertson et al. v. Oakridge School District, (2002) 258 F.3d 1061

Good News Club et al. v. Milford Central School, (2001) 121 S.Ct. 2093

Ceniceros v. Board of Trustees of the San Diego Unified School District, (1997) 106 F.3d 878

Board of Education of Westside Community School District v. Mergens By and Through

Mergens (1989, 8th Cir.) 867 F.2d 1076

Perumal et al v. Saddleback Valley Unified School District, (1988) 198 Cal. App. 3d 64

Student Coalition for Peace v. Lower Merion School District Board of Directors, (1985) 776 F.2d. 431

Hartzell v. Connell, (1984) 35 Cal. 3d 899

ASSEMBLIES AND SPECIAL EVENTS

The Board of Trustees believes that assemblies and special events should promote a positive school climate and be related to the district's educational program. Assemblies may provide information that supplements the district's curriculum or may showcase student achievement in academics, athletics, music, art, drama, or other extracurricular or cocurricular activities.

The principal shall schedule assemblies and special events so as to maximize the effectiveness of instructional time.

Legal Reference:

EDUCATION CODE

37200-37202 School calendar

37220-37223 Holidays

46010 Total days of attendance

46100 Length of schoolday

48980 Notice at beginning of term

51202 Instruction in personal and public health and safety

51240 Excuse from instruction due to religious beliefs

51513 Materials containing questions about beliefs or practices

51930-51939 Comprehensive Sexual Health and HIV/AIDS Prevention Education Act

RECIPROCITY ON STANDARDS OF PROFICIENCY/GRADUATION REQUIREMENTS**Transfer out of the District**

When a student transfers out of the district a statement will be attached to his/her permanent record showing which proficiency assessments, if any, have been satisfactorily passed according to the standards of this district. This brief statement will be appended to any permanent record which is sent to another school in or outside California.(cf. 5125-5125.1 - Student Records/Confidentiality)

Transfers into the District

A student transferring into the district will be given full credit for meeting part or all of the proficiency assessment requirements of this district upon presentation of verification by the sending district that the student passed all or part of the proficiency assessment standards of that district, and no challenge to such credit shall be made because of the possibility that the standards of the sending district may be different from those of this district.

When a student who has been on an individualized education program in the sending district transfers into the district, the appropriate team shall review the IEP. Since passing proficiency standards may be part of the IEP, full credit will be given to the pupil for any proficiency standards which were passed in the sending school, but the pupil will be required to pass any other proficiency standards set by the IEP evaluating team. The intent of this provision is to guarantee that the transferring pupil shall not be penalized because of transfer into this district.

*Legal Reference:*EDUCATION CODE*35160 Authority of governing boards**35160.1 Broad authority of school districts**47612.5 Charter schools operations, general requirements**48011 Admission from kindergarten or other school**48645.5 Coursework completed in public school, juvenile court school or nonpublic nonsectarian school**51225.3 Requirements for graduation**51228 Minimum curriculum standards**60605 Academic content and performance standards; assessments**60641-60649 Standardized Testing and Reporting Program**64001 Single plan for student achievement*

MIDDLE SCHOOL PROMOTION REQUIREMENTS

In order to recognize successful completion of middle school education, the Board of Trustees shall confer certificates of promotion from middle school. Certificates of promotion shall be awarded only to students who have completed the course of study prescribed by law and the district. In addition, students shall meet district requirements for promotion based on grades, assessments or other indicators as specified in Board policy and administrative regulation.

Legal Reference:

EDUCATION CODE

48070-48070.5 Promotion and retention

51400-51403 Elementary school diplomas

52507-52510 Requirements for eighth grade graduation (adult school)

60641-60647 Standardized Testing and Reporting Program

60648 Minimum performance levels

MIDDLE SCHOOL PROMOTION REQUIREMENTS

To participate in the promotion ceremony from a district middle school, a student must meet the following criteria:

1. Meet the district's academic promotion criteria
2. Have a GPA of 1.5 or better for work completed in the eighth grade year
3. Have, in the opinion of the school administrator, a record of good attendance and behavior

INSTRUCTIONAL ARRANGEMENTS

The Board of Trustees encourages the superintendent and the instructional staff to make such arrangements for use of facilities, material, personnel, time and other resources as will, in the Superintendent's and staff's professional judgment to provide that most favorable learning environment for students.

Legal Reference:

EDUCATION CODE

41375 Legislative intent; studies for encouraging reduction in class size

GOVERNMENT CODE

3543.2 Scope of representation

CLASS ASSIGNMENT

Assignment to Teachers and Classes

In general, students will be placed at the grade level to which they are best adjusted academically, socially and emotionally.

Every effort will be made to place students with teachers where a positive student-teacher relationship will be established.

Students with Exceptional Needs

Assignment for students eligible for special education under the local plan for special education will be made by each student's individualized education program team (IEP team) following assessment of the student's educational needs according to the provisions of Education Code. No student may be assessed nor placed in a special education program without the written consent of the parent unless the district or SESR prevails in a due process hearing related to such assessment or placement.

It is the desire of the Board of Trustees that special education students be placed in the least restrictive environment possible, and therefore requests that all staff members of the district cooperate in every way with each student's IEP.

Legal Reference:

EDUCATION CODE

35020 Duties of employees fixed by governing board

35160 Authority of the board

SCHOOL-SPONSORED TRIPS

The Board of Trustees encourages its teachers to take part in field trips, study trips, and school excursions which will enhance the students' appreciation of the relationship of subject matter presented in the regular classroom. The carefully planned field trips will enrich the education experience of children, and will allow students to have first hand evidence or practical application of the area of study.

On all school-sponsored trips involving students, provision will be made for proper supervision by school employees. Parents/Guardians are permitted to assist in such supervision.

The Board recognizes that school-sponsored trips are an important component of a student's development and supplement and enrich the classroom learning experience. School-sponsored trips may be conducted in connection with the district's course of study or school-related social, educational, cultural, athletic, school band activities, or other extracurricular or cocurricular activities.

No field trip shall be authorized if any student would be excluded from participation because of a lack of sufficient funds. (Education Code 35330)

*Legal Reference:*EDUCATION CODE*8760 Authorization of outdoor science and conservation programs**32040-32044 First aid equipment: field trips**35330 Excursions and field trips**35331 Provision for medical or hospital service for pupils (on field trips)**35332 Transportation by chartered airline**35350 Transportation of students**44808 Liability when pupils not on school property**48908 Duties of pupils; authority of teachers*BUSINESS AND PROFESSIONS CODE*17540 Travel promoters**17550-17550.9 Sellers of travel**17552-17556.5 Educational travel organizations*

SCHOOL-SPONSORED TRIPS

Supervision

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

Parent/Guardian Permission

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

Safety Issues

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

HOMEWORK/MAKEUP WORK

The Board of Trustees believes homework to be an integral part of each student's educational program. Homework is a reasonable extension of classroom assignments and is to vary according to individual student's grade level, ability, and need.

Legal Reference:

EDUCATION CODE

48205 Absences for personal reasons

48913 Completion of work missed by suspended student

48980 Parental notifications

58700-58702 Tutoring and homework assistance program; summer school apportionment credit

HOMEWORK/MAKEUP WORK**Homework**

The objective of homework is to assist and improve a student's learning. Homework is to be reasonable in length, directly related to classroom work, well defined in advance by the teacher, understood by the student, corrected and returned to the student, and non-punitive.

It is the student's responsibility to complete homework. It is the parent's responsibility to support this portion of the educational program by encouragement and involvement with the student.

The types of homework assignments and length should vary according to the student's level:

1. **Kindergarten** - Homework is to be minimal and based on teacher judgment of the student's needs.
2. **Primary Grades - (1-3)**
 - a. Homework is to be started as an expectation in the student's educational program.
 - b. Homework is assigned at the discretion of the teacher with an emphasis on reading, math, and language arts.
3. **Intermediate Grades - (4-6)**
 - a. Homework is to be expected as part of the student's educational program.
 - b. Homework emphasis is on reading, math, and language arts.
 - c. Additional assignments are given, which in the judgment of the teacher, will assist the student learn and develop initiative and responsibility.
4. **Middle School - (7-8)**
 - a. Homework is to be a well established part of the student's educational program.
 - b. Homework consists of routine assignments and review and preparation of specific academic and classroom subjects.
 - c. Homework provides opportunities for research and further development of initiative and responsibility.

HOMEWORK/MAKEUP WORK (continued)

Make-Up Work

As a general rule, students shall be given the opportunity to make up school work missed because of an excused absence, and to receive full credit if the work is turned in according to a reasonable make-up schedule; that students who miss school work because of unexcused absences shall be given the opportunity to make up missed work for full or reduced credit at the option of the teacher, except that if the student's absence was due to suspension, the teacher may require the suspended student to complete any assignments and tests missed during the suspension. (Education Code Section 48913)

Students

BP 6158 (a)

INDEPENDENT STUDY

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

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

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

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

Written Agreements

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

The master agreement shall specify the length of time in which each independent study assignment must be completed. Because excessive leniency in the duration of independent study assignments may result in a student falling behind his/her peers and increase the risk of dropping out of school, independent study assignments shall be no more than one week for all grade levels and types of program. However, when necessary based on the specific circumstances of the student's approved program, the Superintendent or designee may allow for a longer period of time between the date an assignment is made and when it is due, up to the termination date of the agreement. An evaluation shall be conducted to determine whether it is in a student's best interest to remain in independent study whenever the student misses three assignments, unless the student's written agreement specifies a lower or higher number of missed assignments based on the nature of the assignments, the total number of assignments, and/or other unique circumstances.

Student-Teacher Conferences

Supervising teachers should establish an appropriate schedule for student-teacher conferences in order to help identify students falling behind in their work or in danger of failing or dropping out of school. Teachers are expected to monitor student progress and work closely with each student to determine the amount and type of contact needed for the student to be successful in the program.

Missing appointments with the supervising teacher without valid reasons may trigger an evaluation to determine whether the student should remain in independent study.

Program Evaluation

The Superintendent or designee shall annually review the number of district students participating in independent study, the average daily attendance generated for apportionment purposes, student performance as measured by standard indicators and in comparison to students in classroom-based instruction, and the number and proportion of independent study students who graduate or successfully complete independent study. Based on the program evaluation, the Superintendent or designee shall determine areas for program improvement as needed.

Legal references next page

Legal Reference:

EDUCATION CODE

Exemption for facilities

Independent study programs; adult education funding

Revenue limits

Local control funding formula; average daily attendance

Qualifications for home teachers and teachers in special classes and schools

-46208 Instructional day and year

-46307.1 Methods of computing average daily attendance

Independent study in charter schools

Residency

Home or hospital instruction; students with temporary disabilities

Classes of children exempted

Improvement of pupil attendance

Expulsion; particular circumstances

Educational program requirements for expelled students

Suspension of expulsion order

Student fees

Requirements for high school graduation

-51749.6 Independent study programs

Adult education alternative instructional delivery

Adult education as supplement to high school curriculum; criteria

Individuals with exceptional needs

-58512 Alternative schools and programs of choice

FAMILY CODE

Authorization affidavits

CODE OF REGULATIONS, TITLE 5

-11703 Independent study

State audit compliance

UNITED STATES CODE, TITLE 20

Highly qualified teachers

COURT DECISIONS

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

EDUCATION AUDIT APPEALS PANEL DECISIONS

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

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Elements of Exemplary Independent Study

WEB SITES

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

California Department of Education, Independent Study:

<http://www.cde.ca.gov/sp/eo/is>

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

Policy adopted:
January 11, 2018

EVERGREEN SCHOOL DISTRICT
San Jose, CA

INDEPENDENT STUDY

Educational Opportunities

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

1. Special assignments extending the content of regular courses of instruction
2. Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum
3. Individualized alternative education designed to teach the knowledge and skills of the core curriculum, but not provided as an alternative curriculum
4. Continuing and special study during travel
5. Volunteer community service activities and leadership opportunities that support and strengthen student achievement

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

Equivalency

The district's independent study option shall be substantially equivalent in quality and quantity to classroom instruction to enable participating students to complete the district's adopted course of study within the customary timeframe. Students in independent study shall have access to the same services and resources that are available to other students in the school and shall have equal rights and privileges. The district shall not provide independent study students and their parents/guardians with funds or items of value that are not provided for other students and their parents/guardians. (Education Code 46300.6, 51747.3)

Eligibility for Independent Study

Provided that experienced certificated staff are available to effectively supervise students in independent study, the Superintendent or designee may approve the participation of a student who demonstrates the motivation, commitment, organizational skills, and academic skills necessary to work independently. A student whose academic performance is not at grade level may participate in independent study only if the program is able to provide appropriate support, such as supplemental instruction, tutoring, counseling, ongoing diagnostic assessments, and/or differentiated materials, to enable the student to be successful. For an elementary student, the Superintendent or designee may consider the parent/guardian's level of commitment to assist the student.

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

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

INDEPENDENT STUDY (continue)

AR 6158 (b)

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

Master Agreement

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

The agreement shall include general student data, including the student's name, address, grade level, birth date, school of enrollment, and program placement. The independent study agreement for each participating student also shall include, but not be limited to, all of the following: (Education Code 51747; 5 CCR 11700, 11702)

1. The manner, time, frequency, and place for submitting the student's assignments and for reporting his/her progress
2. The objectives and methods of study for the student's work and the methods used to evaluate that work
3. The specific resources, including materials and personnel, that will be made available to the student
4. A statement of the Board's policy detailing the maximum length of time allowed between an assignment and its completion and the number of missed assignments, by grade level and type of program, which will trigger an evaluation of whether the student should be allowed to continue in independent study
5. The duration of the independent study agreement, including the beginning and ending dates for the student's participation in independent study under the agreement, with a maximum of one school year
6. A statement of the number of course credits or, for an elementary student, other measures of academic accomplishment appropriate to the agreement, to be earned by the student upon completion
7. A statement that independent study is an optional educational alternative in which no student may be required to participate
8. In the case of a suspended or expelled student who is referred or assigned to any school, class, or program pursuant to Education Code 48915 or 48917, a statement that instruction may be provided through independent study only if the student is offered the alternative of classroom instruction
9. Signatures of the student, the parent/guardian or caregiver of the student if the student is under age 18 years, the certificated employee responsible for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the student

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

INDEPENDENT STUDY (continue)

AR 6158 (c)

Course-Based Independent Study

The district shall offer a course-based independent study program for students in grades K-12 subject to the following requirements: (Education Code 51749.5)

1. Courses shall be taught under the general supervision of certificated employees who hold the appropriate subject matter credential and are employed by the district or by another district, charter school, or county office of education with which the district has a memorandum of understanding to provide the instruction.
2. Courses shall be annually certified by Board resolution to be of the same rigor and educational quality as equivalent classroom-based courses and shall be aligned to all relevant local and state content standards. This certification shall, at a minimum, include the duration, number of equivalent daily instructional minutes for each school day that student is enrolled, number of equivalent total instructional minutes, and number of course credits for each course, consistent with that of equivalent classroom-based courses.
3. Students enrolled in these courses shall meet the applicable age requirements established pursuant to Education Code 46300.1 and 46300.4 and the applicable residency and enrollment requirements established pursuant to Education Code 46300.2, 48204, and 51747.3.
4. Teachers shall communicate with each student in person, by telephone, or by any other live visual or audio connection at least twice per calendar month to assess whether the student is making satisfactory educational progress. For this purpose, satisfactory educational progress includes, but is not limited to, applicable statewide accountability measures and the completion of assignments, examinations, or other indicators that the student is working on assignments, learning required concepts, and progressing toward successful completion of the course, as determined by the teacher providing instruction.

Written or computer-based evidence of satisfactory educational progress shall be retained for each course and student, including, at a minimum, a grade book or summary document that lists all assignments, examinations, and associated grades for each course.

If satisfactory educational progress is not being made, the teacher shall notify the student and, if the student is under age 18 years, his/her parent/guardian. The teacher shall conduct an evaluation to determine whether it is in the student's best interest to remain in the course or whether he/she should be referred to an alternative program, which may include, but is not limited to, a regular school program. A written record of the evaluation findings shall be a mandatory interim student record maintained for three years from the date of the evaluation. If the student transfers to another California public school, the record shall be forwarded to that school.

5. Examinations shall be administered by a proctor.
6. Statewide testing results shall be reported and assigned to the school at which the student is enrolled and shall be included in the aggregate results of the district.

INDEPENDENT STUDY (continue)

AR 6158 (d)

Test results also shall be disaggregated for purposes of comparisons with the test results of students enrolled in classroom-based courses.

7. A student shall not be required to enroll in courses included in this program.

8. The student-teacher ratio in the courses in this program shall meet the requirements of Education Code 51745.6.

9. For each student, the combined equivalent daily instructional minutes for courses in this program and all other courses shall meet applicable minimum instructional day requirements, and the student shall be offered the minimum annual total equivalent instructional minutes pursuant to Education Code 46200-46208.

10. Courses required for high school graduation or for admission to the University of California or California State University shall not be offered exclusively through independent study.

11. A student participating in this program shall not be assessed a fee that is prohibited by Education Code 49011.

12. A student shall not be prohibited from participating in independent study solely on the basis that he/she does not have the materials, equipment, or Internet access necessary to participate in the course.

Before enrolling a student in a course within this program, the Superintendent or designee shall provide the student and, if the student is under age 18 years, his/her parent/guardian with a written learning agreement that includes all of the following: (Education Code 51749.6)

1. A summary of the district's policies and procedures related to this program

2. The duration of the enrolled course(s) and the number of course credits for each enrolled course, consistent with the Board certifications made pursuant to item #2 above

3. The duration of the learning agreement, which shall not exceed a school year or span multiple school years

4. The learning objectives and expectations for each course, including, but not limited to, a description of how satisfactory educational progress is measured and when a student evaluation is required to determine whether the student should remain in the course or be referred to an alternative program, which may include, but is not limited to, a regular school program

5. The specific resources, including materials and personnel, that will be made available to the student

6. A statement that the student is not required to enroll in courses in this program

7. Signatures of the student, the student's parent/guardian if the student is under age 18 years, and all teachers providing instruction

INDEPENDENT STUDY (continue)

AR 6158 (e)

The student's or parent/guardian's signature shall constitute permission for the student to receive instruction through independent study. (Education Code 51749.6)

The Superintendent or designee shall retain a physical or electronic copy of the signed learning agreement for at least three years and as appropriate for auditing purposes. (Education Code 51749.6)

Monitoring Student Progress

The independent study administrator and/or supervising teacher shall promptly and directly address any failure by the student to meet the terms of his/her written agreement.

The following supportive strategies may be used:

1. A letter to the student and/or parent/guardian
2. A meeting between the student and the teacher and/or counselor
3. A meeting between the student and the independent study administrator, including the parent/guardian if appropriate
4. An increase in the amount of time the student works under direct supervision

When the student has missed the number of assignments specified in the written agreement as requiring an evaluation, the Superintendent or designee shall conduct an evaluation to determine whether or not independent study is appropriate for the student. This evaluation may result in termination of the independent study agreement and the student's return to the regular classroom program or other alternative program.

A written record of the findings of any such evaluation shall be treated as a mandatory interim student record which shall be maintained for three years from the date of the evaluation. (Education Code 51747)

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

Responsibilities of Independent Study Administrator

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

1. Recommending certificated staff to be assigned as independent study teachers and supervising staff assigned to independent study functions who are not regularly supervised by another administrator
2. Approving or denying the participation of students requesting independent study
3. Facilitating the completion of written independent study agreements
4. Ensuring a smooth transition for students into and out of the independent study mode of instruction
5. Approving all credits earned through independent study

6. Completing or coordinating the preparation of all records and reports required by law, Board policy, or administrative regulation

Assignment and Responsibilities of Independent Study Teachers

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

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

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

1. Completing designated portions of the written independent study agreement
2. Supervising and approving coursework and assignments
3. Maintaining records of student assignments showing the date the assignment is given and the date the assignment is due
4. Maintaining a daily or hourly attendance register in accordance with item #4 in the section on "Records" below
5. Providing direct instruction and counsel as necessary for individual student success
6. Regularly meeting with the student to discuss the student's progress
7. Determining the time value of assigned work or work products completed and submitted by the student
8. Assessing student work and assigning grades or other approved measures of achievement

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

Records

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

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

INDEPENDENT STUDY (continue)

AR 6158 (g)

2. A listing of the students, by grade level, program, and school, who have participated in independent study, along with the units of the curriculum attempted and completed by students in grades K-8 and the course credits attempted by and awarded to students in grades 9-12 and adult education
3. A file of all agreements, with representative samples of each student's work products bearing the supervising teacher's notations indicating that he/she has personally evaluated the work or that he/she has personally reviewed the evaluations made by another certificated teacher
4. As appropriate to the program in which the students are participating, a daily or hourly attendance register that is separate from classroom attendance records, maintained on a current basis as time values of student work products judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons

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

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

INDIVIDUALIZED EDUCATION PROGRAM

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

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

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

Legal Reference: (see next page)

INDIVIDUALIZED EDUCATION PROGRAM (continued)

Legal Reference:

EDUCATION CODE

51225.3 Requirements for high school graduation and diploma
56055 Rights of foster parents pertaining to foster child's education
56136 Guidelines for low incidence disabilities areas
56195.8 Adoption of policies
56321 Development or revision of IEP
56321.5 Notice to include right to electronically record
56340.1-56347 Instructional planning and individualized education program
56350-56352 IEP for visually impaired students
56380 IEP reviews; notice of right to request
56390-56392 Certificate of completion, special education
56500-56509 Procedural safeguards
60640-60649 Standardized Testing and Reporting Program
60850 High school exit examination, students with disabilities
60852.3 High school exit examination, exemption for the class of 2006

FAMILY CODE

6500-6502 Age of majority

GOVERNMENT CODE

7572.5 Seriously emotionally disturbed child, expanded IEP team

WELFARE AND INSTITUTIONS CODE

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

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Individuals with Disabilities Education Act

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

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

Instruction

AR 6159(a)

INDIVIDUALIZED EDUCATION PROGRAM

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

Members of the IEP Team

The IEP team for any student with a disability shall include the following members:

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

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320.

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

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate

INDIVIDUALIZED EDUCATION PROGRAM (continued)

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

7. Whenever appropriate, the student with a disability

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

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

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

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

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

- a. The student, regardless of his/her age

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

- b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services.

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

Contents of the IEP

The IEP shall include, but not be limited to, all of the following:

1. A statement of the present levels of the student's academic achievement and functional performance, including:
 - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
 - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
 - c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives
2. A statement of measurable annual goals, including academic and functional goals, designed to:
 - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
 - b. Meet each of the student's other educational needs that result from his/her disability

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
 - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

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

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:

INDIVIDUALIZED EDUCATION PROGRAM (continued)

- a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
- b. The transition services, including courses of study, needed to assist the student in reaching those goals

Where appropriate, the IEP shall also include:

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation
2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English
3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)
4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:
 - a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
 - b. Support the transition of the student from the special education program into the regular education program
5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

Development of the IEP

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

INDIVIDUALIZED EDUCATION PROGRAM (continued)

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

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

In developing the IEP, the IEP team shall consider all of the following:

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

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

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

INDIVIDUALIZED EDUCATION PROGRAM (continued)

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

9. Whether the student requires assistive technology devices and services

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

Provision of Special Education and Related Services

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP.

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

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to:

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate
 - b. The results of any reassessment conducted pursuant to Education Code 56381
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305(a)(2) and Education Code 56381(b)
 - d. The student's anticipated needs
 - e. Any other relevant matter

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

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

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

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

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP.

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

When an IEP calls for a residential placement as a result of a review by IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of the case progress, the continuing need for out-of-home placement, the extent of compliance with the IEP, and progress toward alleviating the need for out-of-home care.

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student.

INDIVIDUALIZED EDUCATION PROGRAM (continued)

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

Audio Recording of IEP Team Meetings

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

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

Parent/Guardian Participation and Other Rights

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

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that:

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting

INDIVIDUALIZED EDUCATION PROGRAM (continued)

3. Inform them of:
 - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)
 - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

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

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

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

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

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

INDIVIDUALIZED EDUCATION PROGRAM (continued)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls.

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

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

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English.

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost.

Parent/Guardian Consent for Provision of Special Education and Services

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

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

INDIVIDUALIZED EDUCATION PROGRAM (continued)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student.

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

Transfer Students

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

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

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

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate.

Board approved: September 12, 2013

Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

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

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

Legal Reference:

EDUCATION CODE

56000 Education for individuals with disabilities

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

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

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3100 Regulations governing special education

4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42

11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34

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

104.36 Procedural safeguards

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

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

COURT DECISIONS

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

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time:

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

This notice shall include:

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

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and:

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

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to:

1. Independent educational evaluation
2. Prior written notice
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services
4. Access to educational records
5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures
6. The availability of mediation
7. The student's placement during the pendency of any due process complaint

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense
10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
11. State-level appeals
12. Civil actions, including the time period in which to file those actions
13. Attorney's fees

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

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting.

Format of Parent/Guardian Notices

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

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

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

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

The district may place a copy of the procedural safeguards notice on the district's web site.

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

Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever:

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

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying:

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student
3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

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

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

District's Response to Due Process Complaints

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint.

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint containing:

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

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

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education.

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

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing.

Board approved: September 12, 2013
Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

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

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

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

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

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

Legal Reference: (see next page)

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

Legal Reference:

EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian school and agency

56042 Placement not to be recommended by attorney with conflict of interest

56101 Waivers

56163 Certification

56168 Responsibility for education of student in hospital or health facility school

56195.8 Adoption of policies

56342.1 Individualized education program; placement

56360-56369 Implementation of special education

56711 Computation of state aid

56740-56743 Apportionments and reports

56760 Annual budget plan; service proportions

56775.5 Reimbursement of assessment and identification costs

FAMILY CODE

7911-7912 Interstate compact on placement of children

GOVERNMENT CODE

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

7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

Revised: November 13, 2014

Policy
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

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

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

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

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

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

Placement and Services

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

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

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

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

Out-of-State Placements

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

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

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

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Revised: October 9, 2014

Regulation

approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

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

Legal Reference:

EDUCATION CODE

56028 Parent

56050 Surrogate parents

56055 Rights of foster parents

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to disabled children, especially:

7579.5 Surrogate parent; appointment; qualifications; liability

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

361 Limitations on parental control

601 Minors habitually disobedient or truant

602 Minors violating laws

726 Limitations on parental control

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

300.30 Definition parent

300.519 Surrogate parents

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS**Conditions Necessitating a Surrogate**

The Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances:

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602 and all of the following conditions are satisfied:
 - a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)
 - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a
5. The student has reached the age of majority but has been declared incompetent by a court of law

Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days.

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student.

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS (continued)

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

Duties of Surrogate Parent

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

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7588.

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

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

Termination of Appointment

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

1. When the student is no longer in need of special education
2. Another responsible adult is appointed to make educational decisions for the student
3. The right of the parent/guardian to make educational decisions for the student is fully restored
4. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above

Board approved: September 12, 2013
Regulation
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EVERGREEN SCHOOL DISTRICT
San Jose, California

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

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

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

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

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

Functional Behavioral Assessment

Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.

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

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

Behavioral Intervention Plan and Services

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

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS (continued)

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

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3065.

Emergency Interventions

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

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

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

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

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

5. A statement of whether the student is currently engaged in a systematic BIP
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident

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

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

Prohibited Interventions

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

1. Any intervention designed or likely to cause physical pain, including, but not limited to, electric shock
2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances near the student's face
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities
4. Any intervention that is designed to subject, used to subject, or likely to subject the student to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma
5. Any restrictive intervention that uses a device, material, or objects which simultaneously immobilize all hands and feet, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS
(continued)

6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5

3065 Staff qualifications - related services

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

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

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approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

EQUIPMENT, BOOKS AND MATERIALS

The Board of Trustees recognizes that student learning is enhanced when students have access to high-quality textbooks, equipment and other instructional materials for each of the subjects they are studying. To adequately support the Board-approved curriculum, instructional materials also should be up to date.

The Superintendent or designee shall develop procedures for determining the sufficiency of district instructional materials in providing accurate, current information and ensuring that students have access to standards-based materials. When new instructional materials have been chosen in accordance with the district's selection and evaluation policy, the Board shall make final decisions regarding their purchase.

The teaching staff will serve on curriculum committees and consult with the administration for the purpose of recommending improvements in curriculum and materials. The Board believes that at all times the schools should be as well equipped and maintained as may be possible within existing financial limitations.

The disposition of old and obsolete textbooks shall be accomplished under the direction of the Superintendent of schools in accordance with state and district regulations.

*Legal Reference:*EDUCATION CODE*60010 Definitions**60040-60047 Instructional requirements and materials**60119 Public hearing on sufficiency of materials**60200-60206 Elementary school materials**60240-60252 State Instructional Materials Fund**60400-60411 High school textbooks**60420-60424 Instructional Materials Funding Realignment Program*CODE OF REGULATIONS, TITLE 5*9505-9532 Instructional materials, especially:**9531-9532 Instructional Materials Funding Realignment Program*

EQUIPMENT, BOOKS AND MATERIALS

District-Owned Musical Instruments

The district cannot provide instruments for all children who wish to take advantage of instrumental music instruction. Therefore, the following rules and regulations have been established to provide an equitable loan of district instruments.

1. The loan of school-owned instruments shall be made by the music teachers based upon family need, student ability, and the need to the music program.
2. The duration of the loan of the instrument will be determined by the music teacher based upon student progress, family need, and need to the music program.
3. Music teachers who loan district-owned instruments to students must keep an accurate record for inventory control purposes.

Obsolete or Unusable Text Materials

Obsolete or unusable text materials are defined as materials that: a) include significant out-of-date content or are not up to date in content coverage and/or b) do not adequately relate to current district objectives.

Inventory

All text materials will be inventoried annually. Forms will be provided by the district. One copy of the inventory will remain at the site and one copy will be forwarded to the District Instruction Department.

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

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

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

The Board's priority in the selection of instructional materials is to ensure that all students are provided with standards-aligned instructional materials in the core curriculum areas of English/language arts, mathematics, science, and history-social science.

Review Process

The Superintendent or designee shall establish a process by which instructional materials shall be reviewed for recommendation to the Board. Toward that end, he/she may establish an instructional materials review committee to evaluate and recommend instructional materials.

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

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

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

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

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

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

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

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

Public Hearing on Sufficiency of Instructional Materials

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

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

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

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

1. Mathematics
2. Science
3. History-social science
4. English language arts, including the English language development component of an adopted program
5. Foreign language
6. Health

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

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

The Board shall also make a determination that all students within the district who are enrolled in the same course have "identical" standards-aligned textbooks or instructional materials from the same adoption cycle, as defined in Education Code 1240.3 and 60119. (Education Code 1240.3, 42605)

However, the district may purchase the newest adopted instructional materials for students in district schools ranked in deciles 1-3 of the base Academic Performance Index in any one of the past three school years without necessarily purchasing these materials for use in other district schools. (Education Code 1240.3)

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

Complaints

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

Legal Reference: (see next page)

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

Legal Reference:

EDUCATION CODE

220 Prohibition against discrimination

1240 County superintendent, general duties

1240.3 Definition of sufficiency for categorical flexibility

33050-33053 General waiver authority

33126 School accountability report card

35272 Education and athletic materials

42605 Tier 3 categorical flexibility

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

49415 Maximum textbook weight

51501 Nondiscriminatory subject matter

60000-60005 Instructional materials, legislative intent

60010 Definitions

60040-60052 Instructional requirements and materials

60060-60062 Requirements for publishers and manufacturers

60070-60076 Prohibited acts (re instructional materials)

60110-60115 Instructional materials on alcohol and drug education

60119 Public hearing on sufficiency of materials

60200-60210 Elementary school materials

60226 Requirements for publishers and manufacturers

60350-60352 Core reading program instructional materials

60400-60411 High school textbooks

60510-60511 Donation for sale of obsolete instructional materials

60605 State content standards

60605.8 Common Core Standards

60605.86-60605.88 Supplemental instructional materials aligned with Common Core Standards

CODE OF REGULATIONS, TITLE 5

9505-9530 Instructional materials

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Policy
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

Criteria for Selection and Adoption of Instructional Materials

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

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

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

2. Do not reflect adversely upon persons because of their race or ethnicity, gender, religion, disability, nationality, sexual orientation, occupation, or other characteristic listed in Education Code 220, nor contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 51501, 60044)
3. To the satisfaction of the Board, are accurate, objective, current, and suited to the needs and comprehension of district students at their respective grade levels (Education Code 60045)
4. With the exception of literature and trade books, use proper grammar and spelling (Education Code 60045)
5. Do not expose students to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following: (Education Code 60048, 60200)
 - a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by the SBE.
 - b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration.
6. If the materials are technology-based materials, are both available and comparable to other, equivalent instructional materials (Education Code 60052)
7. Meet the requirements of Education Code 60040-60043 for specific subject content

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

8. Support the district's adopted courses of study and curricular goals
9. Contribute to a comprehensive, balanced curriculum
10. Demonstrate reliable quality of scholarship as evidenced by:
 - a. Accurate, up-to-date, and well-documented information
 - b. Objective presentation of diverse viewpoints
 - c. Clear, concise writing and appropriate vocabulary
 - d. Thorough treatment of subject matter
11. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities, and developmental levels
12. Include materials that stimulate discussion of contemporary issues and improve students' thinking and decision-making skills
13. Contribute to the proper articulation of instruction through grade levels
14. As appropriate, have corresponding versions available in languages other than English
15. Include high-quality teacher's guides
16. Meet high standards in terms of the quality, durability, and appearance of paper, binding, text, and graphics
17. When available, include options for lighter weight materials in order to help minimize any injury to students by the combined weight of instructional materials

Conflict of Interest

To ensure integrity and impartiality in the evaluation and selection of instructional materials, any district employee who is participating in the evaluation of instructional materials and not otherwise designated in the district's conflict of interest code shall sign a disclosure statement indicating that he/she:

SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS (continued)

1. Shall not accept any emolument, money, or other valuable thing or inducement to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material (Education Code 60072)

Sample copies of instructional materials are excepted from this prohibition. (Education Code 60075)
2. Is not employed by nor receives compensation from the publisher or supplier of the instructional materials or any person, firm, organization, subsidiary, or controlling entity representing it
3. Does not have and will not negotiate a contractual relationship with the publisher or supplier of the instructional materials or any person, firm, organization, subsidiary, or controlling entity representing it
4. Does not have an interest as a contributor, author, editor, or consultant in any textbook or other instructional material submitted to the district

SUPPLEMENTARY INSTRUCTIONAL MATERIALS

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

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

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

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

As appropriate, supplementary instructional materials shall meet the criteria developed for the selection and evaluation of basic instructional materials as described in AR 6161.1 - Selection and Evaluation of Instructional Materials. Supplementary instructional materials shall be directly related to the course of study in which they are being used and shall be appropriate for the age and maturity level of the students.

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

Supplementary Materials Aligned with Common Core Standards

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

SUPPLEMENTARY INSTRUCTIONAL MATERIALS (continued)

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

Appropriateness of Materials

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

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

*Legal Reference:*EDUCATION CODE*233.5 Duty regarding instruction in morals, manners, and citizenship**18111 Exclusion of books by governing board**51510 Prohibited study or supplemental materials**51511 Religious matters properly included**51933 Sex education materials**60010 Definitions**60050 Social content review of instructional materials**60060-60062 Requirements of publishers**60200.7 Suspension of state instructional materials adoptions**60226 Learner verification of instructional materials**60400 Adoption of high school instructional materials**60605.8 Common Core Standards**60605.86-60605.88 Supplemental instructional materials aligned with Common Core Standards**60811.3 English language development standards*

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EVERGREEN SCHOOL DISTRICT
 San Jose, California

DAMAGED OR LOST INSTRUCTIONAL MATERIALS

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

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

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

*Legal Reference:*EDUCATION CODE*48904 Willful misconduct; limit of liability of parent or guardian**48904.3 Withholding grades, diplomas or transcripts of students causing property damage or injury**60119 Public hearing on sufficiency of materials**60411 Purchase and use; property of district*CIVIL CODE*1714.1 Liability of parent or guardian for act of willful misconduct by a minor*CODE OF REGULATIONS, TITLE 5*305 Student responsible for care of property*

STATE ACADEMIC ACHIEVEMENT TESTS

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

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

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

Legal Reference:

EDUCATION CODE

49076 *Student records; access*

51041 *Evaluation of educational program*

52052 *Academic Performance Index; numerically significant student subgroups*

52060-52077 *Local control and accountability plan*

56345 *Individualized education program, contents*

60600-60630 *Assessment of academic achievement*

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

60660-60663 *Electronic learning assessment resources*

60810 *Assessment of language development*

99300-99301 *Early Assessment Program*

CODE OF REGULATIONS, TITLE 5

850-864 *State assessments*

UNITED STATES CODE, TITLE 20

1412 *Participation of students with disabilities in state assessments*

6311 *Adequate yearly progress*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1 *Standards and assessment*

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EVERGREEN SCHOOL DISTRICT
San Jose, California

USE OF COPYRIGHTED MATERIALS

The Board of Trustees recognizes the importance of ensuring that the district complies with federal law regarding copyrights. District staff and students are expected to maintain the highest ethical standards in using copyrighted materials.

When selecting appropriate supplementary instructional materials, it is each staff member's responsibility to adhere to the provisions of federal copyright law, Board policy, and administrative regulation. The district shall not be responsible for any violation of copyright laws by its staff or students. If a staff member is uncertain as to whether reproducing or using copyrighted material complies with the law, he/she shall contact the Superintendent or designee for clarification and assistance.

*Legal Reference:*EDUCATION CODE*35182 Computer software*UNITED STATES CODE, TITLE 17*101-122 Subject matter and scope of copyright, especially:**102 Definitions**107 Fair use**110 Limitations on exclusive rights: Exemption of certain performances and displays*COURT DECISIONS*Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171*

LIBRARY MEDIA CENTERS

Selection and Retention of Books and Media in School Library/Media Centers

Philosophy and Objectives

The Board of Trustees of the district establishes the school library/media center according to Educational Code.

The Board subscribes to the philosophy that the school library/media center is an integral part of the educational program of the district and provision of a variety of instructional material is an educational responsibility. Materials selected must conform to accepted district criteria and to the provisions of the Education Code.

Selection and Evaluation of School Library Materials

Library materials shall include print and electronic resources that align with the curriculum and are accessible to students with varying cognitive or language needs.

Teacher librarians shall evaluate and select materials in accordance with law, Board policy, and administrative regulation and shall use professional selection aids and standards. The selection process shall invite recommendations from administrators, teachers, other staff, parents/guardians, and students as appropriate.

Library materials should be continually evaluated in relation to evolving curricula, new formats of materials, new instructional methods, and the needs of students and teachers. Materials that contain outdated subject matter or are no longer appropriate shall be removed, and lost or worn materials may be replaced.

All gifts and donations of school library materials shall be subject to the same criteria as materials selected for purchase by the district.

Complaints regarding the appropriateness of library materials shall be addressed using the district's procedures for complaints regarding instructional materials.

Complaints must be submitted in writing to the Instruction Department and include specific information as to author, title, publisher, and specific objection. The statement must be signed and identification given which will allow proper reply. Challenged material will not be removed automatically from the library/media center, but will be reviewed in light of the objections raised. The district librarian will review the materials according to the established selection criteria.

Legal Reference: (see next page)

LIBRARY MEDIA CENTERS (continued)

Consideration of Objections to Material in Use

Legal Reference:

EDUCATION CODE

1703 *Coordination of district library services by county superintendent*

1770-1775 *Provision of library services by county superintendent*

18100-18203 *School libraries*

18300-18571 *Union high school district/unified school district library district*

19335-19336 *Reading Initiative Program; recommended books*

41570-41573 *School and Library Improvement Block Grant*

42605 *Tier 3 categorical flexibility*

44868-44869 *Qualifications and employment of library media teachers*

45340-45349 *Instructional aides*

60119 *Sufficiency of textbooks and instructional materials; public hearing*

60240-60251.5 *State Instructional Materials Fund, purchase of classroom library materials*

60420-60424 *Instructional Materials Funding Realignment Program*

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

18181 *Districtwide library plan*

52012 *Establishment of school site council*

52014-52015 *School plans*

CODE OF REGULATIONS, TITLE 5

16040-16043 *School libraries*

80053 *Library media service teaching credential*

UNITED STATES CODE, TITLE 20

6383 *Improving Literacy Through School Libraries grant program*

ANIMALS AT SCHOOL

The Board of Trustees recognizes that animals can contribute to the district's instructional program by being effective teaching aids to students and by assisting individuals with disabilities to access district programs and activities. In addition, instruction related to the care and treatment of animals teaches students a sense of responsibility and promotes the humane treatment of living creatures.

The Superintendent or designee shall develop rules and procedures to ensure that when animals are brought to school, the health, safety, and welfare of students, staff, and the animals are protected. However, the district assumes no liability for the safety of animals allowed on district property.

*Legal Reference:*EDUCATION CODE*233.5 Instruction in kindness to pets and humane treatment of living creatures**39839 Transportation of guide dogs, signal dogs, service dogs**51202 Instruction in personal and public health and safety**51540 Safe and humane treatment of animals at school*CIVIL CODE*54.1 Access to public places**54.2 Guide, signal, or service dogs, right to accompany*GOVERNMENT CODE*810-996.6 California Tort Claims Act, especially:**815 Liability for injuries generally; immunity of public entity**835 Conditions of liability*VEHICLE CODE*21113 Public grounds*CODE OF REGULATIONS, TITLE 13*1216 Transportation of property*UNITED STATES CODE, TITLE 20*1400-1482 Individuals with Disabilities Education Act*UNITED STATES CODE, TITLE 29*794 Rehabilitation Act of 1973, Section 504*CODE OF FEDERAL REGULATIONS, TITLE 28*35.104 Definitions**35.136 Service animals*COURT DECISIONS*Sullivan v. Vallejo City USD, (1990) 731 F.Supp. 947*

ANIMALS AT SCHOOL**Use of Animals for Instructional Purposes**

Before any student or employee brings an animal to school for an instructional purpose, he/she shall receive written permission from the principal or designee. The principal or designee shall give such permission only after he/she has provided written notification to all parents/guardians of students in the affected class, asking them to verify whether their child has any known allergies, asthma, or other health condition that may be aggravated by the animal's presence. When a parent/guardian has provided notification that his/her child has an allergy, asthma, or other health condition that may be aggravated by the animal, the principal shall take appropriate measures to protect the student from exposure to the animal.

All animals brought to school must be in good physical condition and must be appropriately immunized. The teacher shall ensure that the species of animal is appropriate for the instructional purpose and age and maturity of the students.

All animals brought to school shall be adequately fed, effectively controlled, humanely treated, and properly housed in cages or containers suitable for the species. The teacher shall ensure that cages and containers are cleaned regularly and that waste materials are removed and disposed of in an appropriate manner.

The teacher shall ensure that students receive instructions regarding the proper handling of and personal hygiene around animals.

Except for service animals, as defined below, all animals are prohibited on school transportation services.

Use of Service Animals by Individuals with Disabilities

For an individual with a disability, service animal means any dog that is individually trained to do work or perform tasks related to the individual's disability and for his/her benefit. For example, for an individual who is blind or has low vision, a service animal would mean a dog that helps him/her with vision, navigation, and other tasks; for an individual who is deaf or hard of hearing, a service animal would mean a dog that alerts him/her to the presence of people or sounds; and for an individual with psychiatric or neurological disabilities, a service animal would mean a dog that assists him/her by preventing or interrupting impulsive or destructive behaviors.

Individuals with disabilities may be accompanied on school premises and on school transportation by service animals, including specially trained guide dogs, signal dogs, or service dogs.

ANIMALS AT SCHOOL (continued)

The Superintendent or designee may permit the use of a miniature horse as a service animal when the horse has been individually trained to do work or perform tasks for the benefit of an individual with a disability, provided that:

1. The district's facility can accommodate the type, size, and weight of the horse.
2. The individual has sufficient control of the horse.
3. The horse is housebroken.
4. The horse's presence in the specific facility does not compromise legitimate safety requirements of the facility.

The Superintendent or designee may ask any individual with a disability to remove his/her service animal from school premises or transportation if the animal is out of control and the individual does not take effective action to control it or the animal is not housebroken. When an individual's service animal is excluded, he/she shall be given an opportunity to participate in the service, program, or activity without having the service animal present.

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EVERGREEN SCHOOL DISTRICT
San Jose, California

STUDENT USE OF TECHNOLOGY

The Board of Trustees intends that technological resources provided by the district be used in a safe, responsible, and proper manner in support of the instructional program and for the advancement of student learning.

The Superintendent or designee shall notify students and parents/guardians about authorized uses of district computers, user obligations and responsibilities, and consequences for unauthorized use and/or unlawful activities in accordance with district regulations and the district's Acceptable Use Agreement.

Before a student is authorized to use the district's technological resources, the student and his/her parent/guardian shall sign and return the Acceptable Use Agreement specifying user obligations and responsibilities. In that agreement, the student and his/her parent/guardian shall agree not to hold the district or any district staff responsible for the failure of any technology protection measures, violations of copyright restrictions, or user mistakes or negligence. They shall also agree to indemnify and hold harmless the district and district personnel for any damages or costs incurred.

The Superintendent or designee shall regularly review and update this policy, the accompanying administrative regulation, and other relevant procedures to enhance the safety and security of students using the district's technological resources and to help ensure that the district adapts to changing technologies and circumstances.

Use of District Computers for Online Services/Internet Access

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that blocks or filters Internet access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. (20 USC 6777, 47 USC 254)

To reinforce these measures, the Superintendent or designee shall implement rules and procedures designed to restrict students' access to harmful or inappropriate matter on the Internet and to ensure that students do not engage in unauthorized or unlawful online activities. Staff shall supervise students while they are using online services and may have teacher aides, student aides, and volunteers assist in this supervision.

The Superintendent or designee also shall establish regulations to address the safety and security of students and student information when using email, chat rooms, and other forms of direct electronic communication.

STUDENT USE OF TECHNOLOGY (continued)

The Superintendent or designee shall provide age-appropriate instruction regarding safe and appropriate behavior on social networking sites, chat rooms, and other Internet services. Such instruction shall include, but not be limited to, the dangers of posting personal information online, misrepresentation by online predators, how to report inappropriate or offensive content or threats, behaviors that constitute cyberbullying, and how to respond when subjected to cyberbullying.

Legal Reference:

EDUCATION CODE

51006 Computer education and resources

51007 Programs to strengthen technological skills

51870-51874 Education technology

60044 Prohibited instructional materials

PENAL CODE

313 Harmful matter

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

653.2 Electronic communication devices, threats to safety

UNITED STATES CODE, TITLE 15

6501-6506 Children's Online Privacy Protection Act

UNITED STATES CODE, TITLE 20

6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:

6777 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 16

312.1-312.12 Children's Online Privacy Protection Act

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

STUDENT USE OF TECHNOLOGY

The principal or designee shall oversee the maintenance of each school's technological resources and may establish guidelines and limits on their use. All instructional staff shall receive a copy of this administrative regulation, the accompanying Board policy, and the district's Acceptable Use Agreement describing expectations for appropriate use of the system and shall also be provided with information about the role of staff in supervising student use of technological resources. All students using these resources shall receive instruction in their proper and appropriate use.

Teachers, administrators, and/or library media specialists shall prescreen technological resources and online sites that will be used for instructional purposes to ensure that they are appropriate for the intended purpose and the age of the students.

Online/Internet Services: User Obligations and Responsibilities

Students are authorized to use district equipment to access the Internet or other online services in accordance with Board policy, the user obligations and responsibilities specified below, and the district's Acceptable Use Agreement.

1. The student in whose name an online services account is issued is responsible for its proper use at all times. Students shall keep personal account numbers and passwords private and shall only use the account to which they have been assigned.
2. Students shall use the district's system safely, responsibly, and primarily for educational purposes.
3. Students shall not access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

4. Unless otherwise instructed by school personnel, students shall not disclose, use, or disseminate personal identification information about themselves or others when using email, chat rooms, or other forms of direct electronic communication. Students also shall be cautioned not to disclose such information by other means to individuals contacted through the Internet without the permission of their parents/guardians.

Personal information includes the student's name, address, telephone number, Social Security number, or other personally identifiable information.

STUDENT USE OF TECHNOLOGY (continued)

5. Students shall not use the system to encourage the use of drugs, alcohol, or tobacco, nor shall they promote unethical practices or any activity prohibited by law, Board policy, or administrative regulations.
6. Students shall not use the system to engage in commercial or other for-profit activities.
7. Students shall not use the system to threaten, intimidate, harass, or ridicule other students or staff.
8. Copyrighted material shall be posted online only in accordance with applicable copyright laws. Any materials utilized for research projects should be given proper credit as with any other printed source of information.
9. Students shall not intentionally upload, download, or create computer viruses and/or maliciously attempt to harm or destroy district equipment or materials or manipulate the data of any other user, including so-called "hacking."
10. Students shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or use another individual's identity.
11. Students shall report any security problem or misuse of the services to the teacher or principal.

The district reserves the right to monitor use of the district's systems for improper use without advance notice or consent. Students shall be informed that computer files and electronic communications, including email, are not private and may be accessed by the district for the purpose of ensuring proper use.

Whenever a student is found to have violated Board policy, administrative regulation, or the district's Acceptable Use Agreement, the principal or designee may cancel or limit a student's user privileges or increase supervision of the student's use of the district's technological resources, as appropriate. Inappropriate use also may result in disciplinary action and/or legal action in accordance with law and Board policy.

Cyberbullying - Includes the posting of harassing messages, direct threats, social cruelty, or other harmful text or images on the Internet, social networking sites, or other digital technologies, as well as breaking into another person's account and assuming that person's identity in order to damage that person's reputation or friendships.

STUDENT USE OF TECHNOLOGY (continued)

Filtering - District has the right, to the extent required by law, to place reasonable restrictions on the material accessed or posted through the system.

Media Publishing - All published media must follow district guidelines and is subject to review.

Plagiarism - Students will not plagiarize works. Plagiarism is taking the ideas or writings of others and presenting them as if they were their own.

Copyright Infringement - Students will respect the rights of copyright owners. Copyright infringement occurs when a work, software, music, video, etc. that is protected by a copyright is inappropriately reproduced. Students should ask their teacher and request permission from the copyright owner if they are unsure whether or not they can use a work.

Services - The district makes no guarantee that the functions of the services provided by or through the district system will be error-free or without defect. The district will not be responsible for any damage suffered, including but not limited to, loss of data or interruption of service.

Consequences - The use of technology in district is a privilege, not a right. In addition to any criminal and civil penalties, students are also subject to school discipline for technology-related offenses.

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EVERGREEN SCHOOL DISTRICT
San Jose, California

SUPPLEMENTAL SCHOOL COUNSELING PROGRAM FOR STUDENTS IN GRADES 7-8

Personal Counseling

Counseling staff may identify and work with students whose personal problems may prevent them from reaching their potential. As appropriate, students shall be informed about agencies that offer qualified professional assistance with substance abuse, physical or emotional problems, or other personal problems.

Counselors shall respect student confidentiality as appropriate and shall consult with the Superintendent or designee or with the district's legal counsel whenever unsure of how to respond to a student's personal problem. Parent/guardian consultation and consent shall be obtained as appropriate.

Legal Reference:

EDUCATION CODE

221.5 Prohibited sex discrimination

37254 Supplemental instruction based on failure to pass exit exam by end of grade 12

41505-41508 Pupil Retention Block Grant

48431 Establishing and maintaining high school guidance and placement program

49600-49604 Educational counseling

51250 School age military dependents

51513 Personal beliefs

52378-52380 Supplemental School Counseling Program

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

48431.6 Tenth grade counseling program

PENAL CODE

11166-11170 Reporting known or suspected cases of child abuse

CODE OF REGULATIONS, TITLE 5

4930-4931 Counseling

UNITED STATES CODE, TITLE 10

503 Military recruiter access to directory information

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

7908 Armed forces recruiter access to students and student recruiting information

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family educational rights and privacy

**SUPPLEMENTAL SCHOOL COUNSELING PROGRAM FOR STUDENTS
IN GRADES 7-8**

A counselor shall review the academic and behavior record of qualified students in grades 7-8, and meet with each student and, if practicable, his/her parent/guardian to explain the records. At the meeting, the counselor shall also explain the student's educational options, the coursework and academic progress needed for satisfactory completion of middle school or high school and passage of the high school exit examination, and the availability of career technical education. If such services are available to district students, the educational options discussed shall include college preparatory and vocational programs, including regional occupational centers and programs and any other available alternatives. (Education Code 53278)

The Superintendent or designee shall identify students in grades 7-8 (Education Code 53278)

1. Who are at risk of not graduating with the rest of their class
2. Who are not earning credits at a rate that will enable them to pass the high school exit examination
3. Who do not have sufficient training to allow them to fully engage in their chosen career
4. Other students who could benefit from, or are in need of, such services.

The district shall provide the following services:

1. For students in grade 7 who are deemed to be at the far below basic level in English language arts or mathematics pursuant to the California Standards Test administered in grade 6, the district shall provide a list of coursework and experience necessary to assist them to successfully transition to high school and to meet all graduation requirements, including passing the high school exit examination. (Education Code 53278)
2. For students in grade 7 detailed in item #1 above, a copy of the list of coursework and experience shall be provided to the student and his/her parent/guardian. The list shall also be included in the student's cumulative record. (Education Code 53278)
3. Individual Conference: For students in grade 7 who have been provided the list of coursework and experience detailed in item #1 above, the district shall offer and schedule an individual conference with each student, his/her parent/guardian, and the school. During the conference, the counselor shall apprise the student and his/her parent/guardian of the following: (Education Code 53278)
 - a. Consequences of not passing the high school exit examination
 - b. Available programs, courses, and career technical education options needed for satisfactory completion of middle or high school

**SUPPLEMENTAL SCHOOL COUNSELING PROGRAM FOR STUDENTS
IN GRADES 7-8 (continued)**

- c. The student's cumulative records and transcripts
- d. The student's performance on standardized and diagnostic assessments
- e. Available remediation strategies, high school courses, and alternative education options
- f. Information about postsecondary education and training
- g. As applicable, the student's score on the English language arts or mathematics portion of the California Standards Test administered in grade 6

The individual conference shall be scheduled, to the extent feasible, within the following timeline: (Education Code 53278)

For students in grade 7, the conference shall occur before January of that year in which the student is in grade 7.

The Superintendent or designee shall annually submit reports to the California Department of Education describing the number and percentage of students receiving various program services. (Education Code 52380)

Notifications

Beginning with grade 7, parents/guardians shall be notified at least once before career counseling and course selection so that they may participate in the counseling sessions and decisions. (Education Code 221.5)

Nondiscrimination

No counselor shall unlawfully discriminate against any student. In addition, when exploring the possibility of careers and courses leading to such careers, counseling staff shall not differentiate career, vocational, or higher education opportunities on the basis of the sex of the student. (Education Code 221.5; 5 CCR 4930)

For appraising or counseling students, the district shall not use testing or other materials that permit or require impermissible or unlawful differential treatment of students. (5 CCR 4931)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

The Board of Trustees recognizes the need to actively seek out and evaluate district residents from birth to age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

The Superintendent or designee shall establish a comprehensive system that includes procedures for the identification, screening, referral, and regular and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the education and related services provided to such individuals. (Education Code 56301)

The district's identification procedures shall include methods for utilizing referrals from parents/guardians, teachers, appropriate professionals, and others, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

The Superintendent or designee shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals who need special education services. (Education Code 56301)

Legal Reference: (see next page)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Legal Reference:

EDUCATION CODE

44265.5 Professional preparation for teachers of impaired students
56000-56885 Special education programs, especially:
56195.8 Adoption of policies
56300-56304 Identification of individuals with disabilities
56320-56331 Assessment
56333-56338 Eligibility criteria for specific learning disabilities
56340-56347 Instructional planning and individualized education program
56381 Reassessment of students
56425-56432 Early education for individuals with disabilities
56441.11 Eligibility criteria, children ages 3-5
56445 Transition to grade school; reassessment
56500-56509 Procedural safeguards

GOVERNMENT CODE

95000-95029.5 California Early Intervention Services Act

CODE OF REGULATIONS, TITLE 5

3021-3029 Identification, referral and assessment
3030-3031 Eligibility criteria

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974
1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement
104.36 Procedural safeguards
300.1-300.818 Individuals with Disabilities Education Act, especially:
300.301-300.306 Evaluations and reevaluations

COURT DECISIONS

Hood v. Encinitas Union School District, (2007) 486 F.3d 1099

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate.

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect.

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student.

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term.

The proposed evaluation plan shall meet all of the following requirements:

1. Be in a language easily understood by the general public
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information:

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by the district, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services.

Informed parental consent means that the parent/guardian:

1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including:

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

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516.

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists:

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students.

Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation.

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are:

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine:

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations.

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following:

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria.

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the district uses for a district-initiated evaluation.

An *independent educational evaluation* is an evaluation conducted by a qualified examiner who is not employed by the district. *Public expense* means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian.

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees.

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district.

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an IEE is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense.

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint.

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311.

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children.

STUDENT SUCCESS TEAMS

The Board of Trustees encourages the collaboration of parents/guardians, teachers, resource personnel, administrators and students in evaluating the strengths and needs of students having academic, attendance or behavioral difficulties and in identifying strategies and programs that may assist the students. The Superintendent or designee shall establish student success teams as needed to address individual students' needs.

The Superintendent or designee shall establish a process for initiating referrals of students to the student success team.

Each student success team shall develop intervention strategies to assist the student. Such strategies may include changes in program placement or instructional methods, recommendation of supplemental educational services, parent involvement strategies, behavioral interventions, discipline, referrals to other agencies or resources, and/or other appropriate interventions.

The student success team shall monitor the student's progress, evaluate the extent to which the recommended strategies have been implemented, and develop additional interventions as needed.

*Legal Reference:*EDUCATION CODE*8800-8807 Healthy Start support services for children**41505-41508 Pupil Retention Block Grant**48260-48273 Truancy**48400-48454 Continuation education**49600-49604 Educational counseling**51745-51749.3 Independent study programs**52200-52212 Gifted and talented student programs**54400-54425 Programs for disadvantaged children**54440-54445 Migrant children*WELFARE AND INSTITUTIONS CODE*4343-4352.5 Primary interventions program, mental health**18986.40-18986.46 Interagency children's services*

STUDENT SUCCESS TEAMS

Team Membership

Members of individual student success teams may include:

1. The principal or designee
2. One or more of the student's classroom teachers or former teachers
3. The student's parents/guardians
4. The student if appropriate
5. Resource personnel or specialists, such as a school counselor, psychologist, nurse, outreach consultant, special education resource person, categorically funded staff person, department chairperson, speech and language specialist, reading specialist, social worker, probation officer, community resource representative, mental health worker or other person relevant to the student's situation

Team Responsibilities

The principal or designee shall:

1. Schedule meetings and establish meeting procedures
2. Contact parents/guardians and other team members regarding team meetings
3. Consult with appropriate school or district resource personnel
4. Arrange for observation of the student in the problem situation as needed
5. Collect any additional background information necessary to inform team members about the student's strengths and needs
6. Help the student and parents/guardians prepare for the meeting
7. Facilitate the team meetings
8. Ensure that the student's progress is monitored and that follow-up meetings are regularly scheduled

IDENTIFICATION AND EDUCATION UNDER SECTION 504

The Board of Trustees believes that all children, including children with disabilities, should have an opportunity to learn in a safe and nurturing environment. The district shall work to identify children with disabilities who reside within its jurisdiction in order to ensure that they receive educational and related services required by law.

The Superintendent or designee shall provide identified students with disabilities with a free appropriate public education, as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

In addition, qualified students with disabilities shall be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

Legal Reference: (see next page)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Legal Reference:

EDUCATION CODE

49423.5 *Specialized physical health care services*

CODE OF REGULATIONS, TITLE 5

3051.12 *Health and Nursing Services*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*

1400-1482 *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

705 *Definitions; Vocational Rehabilitation Act*

794 *Rehabilitation Act of 1973, Section 504*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61 *Nondiscrimination on the basis of handicap, especially:*

104.1 *Purpose to effectuate Section 504 of the Rehabilitation Act of 1973*

104.3 *Definitions*

104.32 *Location and notification*

104.33 *Free appropriate public education*

104.34 *Educational setting*

104.35 *Evaluation and placement*

104.36 *Procedural safeguards*

IDENTIFICATION AND EDUCATION UNDER SECTION 504

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Director of Pupil Services
3188 Quimby Road
San Jose, CA 95148
(408) 270-6840

Definitions

For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of nondisabled students are met, without cost to the student or his/her parent/guardian, except when a fee is imposed on nondisabled students. (34 CFR 104.33)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.3)

Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine. (34 CFR 104.3)

Mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 104.3)

Substantially limits major life activities means limiting a person's ability to perform functions such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also includes major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Substantially limits shall be determined without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures include, but are not limited to, medications, prosthetic devices, assistive devices, learned behavioral, or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment. (42 USC 12102; 34 CFR 104.3)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Referral, Identification, and Evaluation

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.
2. Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If it is determined that the student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement. (34 CFR 104.35)

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient
- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)
5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

Review and Reevaluation

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of nondisabled students. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

Procedural Safeguards

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, he/she may request a Section 504 due process hearing.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Section 504 due process hearing shall be conducted in accordance with the following procedures:

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:
 - a. The specific nature of the decision with which he/she disagrees
 - b. The specific relief he/she seeks
 - c. Any other information he/she believes is pertinent to resolving the disagreement
2. Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
4. The parties to the hearing shall be afforded the right to:
 - a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504
 - b. Present written and oral evidence
 - c. Question and cross-examine witnesses
 - d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

Revised: October 1, 2014
Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

TRANSITIONAL KINDERGARTEN

The Board of Trustees desires to offer a high-quality transitional kindergarten program for eligible children who do not yet meet the minimum age criterion for kindergarten. The program shall assist children in developing the academic, social, and emotional skills they need to succeed in kindergarten and beyond.

The district's transitional kindergarten shall be the first year of a two-year kindergarten program. Students who complete the transitional kindergarten program shall be eligible to continue in kindergarten the following school year. A student shall not attend more than two years in a combination of transitional kindergarten and kindergarten.

Eligibility

The district's transitional kindergarten program shall admit children whose fifth birthday lies between: (Education Code 48000)

1. November 2 and December 2 in the 2012-13 school year
2. October 2 and December 2 in the 2013-14 school year
3. September 2 and December 2 in the 2014-15 school year and each school year thereafter

The Board of Trustees shall provide parents the option to accelerate implementation of the program prior to the dates specified in law, thus allowing children whose fifth birthday will be between September 1 and December 2 to enroll in transitional kindergarten prior to 2014-15.

Parents/guardians of eligible children shall be notified of the availability of this program and the age, residency, and any other enrollment requirements. Enrollment in the transitional kindergarten program shall be voluntary.

Acceleration/Retention/Continuance Regulations

By May of each year, Kindergarten age eligible children who are enrolled in transitional kindergarten, must have a continuance form (D-14) signed by a parent/guardian consenting to the child's enrollment in kindergarten the following school year.

TRANSITIONAL KINDERGARTEN (continued)

Legal Reference:

EDUCATION CODE

8973 Extended-day kindergarten

44258.9 Assignment monitoring by county office of education

46111 Kindergarten, hours of attendance

46114-46119 Minimum school day, kindergarten

46300 Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten

48000 Minimum age of admission (kindergarten)

48002 Evidence of minimum age required to enter kindergarten or first grade

48200 Compulsory education, starting at age six

60605.8 Academic Content Standards Commission, development of Common Core Standards

TITLE I PROGRAMS

In order to improve the academic achievement of students from economically disadvantaged families, the district shall use federal Title I funds to provide supplementary services that reinforce the core curriculum and assist students in attaining proficiency on state academic standards and assessments.

The Superintendent or designee shall provide technical assistance and support to any school participating in the Title I program, including consultation in the development and implementation of school plans and activities. (20 USC 6312)

The district and each school receiving Title I funds shall develop a written parent involvement policy in accordance with 20 USC 6318.

Local Educational Agency Plan

The Superintendent or designee shall consult with teachers, principals, administrators, other appropriate school personnel, and parents/guardians of participating students in the development, periodic review, and, as necessary, the revision of a local educational agency (LEA) plan. The plan and any revisions shall be submitted to the Board of Trustees for approval. (20 USC 6312)

The plan shall address the components specified in 20 USC 6312, which describe the assessments, strategies, and services the district will use to help low-achieving students meet challenging academic standards.

The initial plan shall be submitted to the California Department of Education (CDE) and approved by the State Board of Education. Subsequent revisions of the plan shall be kept on file in the district.

Comparability of Services

State and local funds used in schools receiving Title I funds shall provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I funds or, if all district schools are receiving Title I funds, that are substantially comparable in each school. Comparability may be determined on a school-by-school basis or by grade span. (20 USC 6321)

To demonstrate comparability of services among district schools:

1. The Board shall adopt and implement a districtwide salary schedule.
2. The ratio of students to teachers, administrators, and other staff at each Title I school shall not exceed 110 percent of the average ratio across non-Title I schools.

TITLE I PROGRAMS (continued)

3. Salary expenditures at each Title I school shall be no less than 90 percent of the average salary expenditure across non-Title I schools.
4. All district schools shall be provided with the same level of base funding per student for curriculum and instructional materials.
5. The Superintendent or designee shall maintain records of the quantity and quality of instructional materials and equipment at each school.

In determining comparability, the district shall not include staff salary differentials for years of employment. The district also may exclude unpredictable changes in student enrollment or personnel assignments that occur after the beginning of the school year, state and local funds expended for language instruction educational programs, state and local funds expended for the excess costs of providing services to disabled students, and supplemental state or local funds expended in any school attendance area or school for programs that specifically meet the intent and purposes of Title I. (20 USC 6321)

At the beginning of each school year, the Superintendent or designee shall measure comparability in accordance with the above criteria and maintain records documenting the district's compliance. If any instances of noncomparability are identified, the Superintendent or designee shall promptly implement adjustments as needed to ensure comparability.

Program Evaluation

The Board shall use state assessment results and other available measures or indicators to annually determine whether each participating school is making adequate yearly progress toward ensuring that all students meet the state's proficient level of achievement on state assessments. (20 USC 6316)

Legal Reference: (see next page)

TITLE I PROGRAMS (continued)

Legal Reference:

EDUCATION CODE

11503 *Parent involvement programs in Title I schools*

52055.57 *Districts identified or at risk of identification for program improvement*

54020-54028 *Economic Impact Aid*

54420-54425 *State Compensatory Education*

64001 *Single plan for student achievement, consolidated application programs*

UNITED STATES CODE, TITLE 20

6301 *Program purpose*

6311-6322 *Improving basic programs for disadvantaged students, including:*

6312 *Local educational agency plan*

6313 *Eligibility of schools and school attendance areas; funding allocation*

6314 *Title I schoolwide programs*

6315 *Targeted assistance schools*

6316 *School improvement*

6318 *Parent involvement*

6320 *Participation of private school students*

6321 *Comparability of services*

7881 *Participation of private school students*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.79 *Improving basic programs for disadvantaged students*

TITLE I PROGRAMS**Schoolwide Programs**

A school may operate a Title I schoolwide program in order to upgrade the entire educational program of the school when at least 40 percent of the students in the school attendance area, or at least 40 percent of the students enrolled in the school, are from low-income families. The Superintendent or designee shall inform any such eligible school and the school's parents/guardians of the school's eligibility and its ability to consolidate funds from federal, state, and local sources for program purposes. (20 USC 6312, 6314)

Any participating school shall develop, annually review, and update a single plan for student achievement which incorporates the plan required by 20 USC 6314 for reforming the school's total instructional program and plans required by other categorical programs included in the state's consolidated application. (Education Code 64001; 20 USC 6314)

A schoolwide program shall include: (20 USC 6314)

1. A comprehensive needs assessment of the entire school, including the needs of migrant students, which includes the achievement of students in relation to state academic content and achievement standards
2. Schoolwide reform strategies that:
 - a. Provide opportunities for all students to meet the state's proficient and advanced levels of achievement
 - b. Use effective methods and instructional strategies, based on scientifically based research, that strengthen the school's core academic program, increase the amount and quality of learning time, help provide an enriched and accelerated curriculum, and include strategies for meeting the educational needs of historically underserved populations
 - c. Include strategies to address the needs of all students in the school, but particularly the needs of low-achieving students and those at risk of not meeting state achievement standards who are members of the target population of any program that is part of the schoolwide program

Such strategies may include counseling, student services, mentoring services, college and career awareness and preparation, and the integration of vocational and technical education programs.
 - d. Address how the school will determine if student needs have been met
 - e. Are consistent with and designed to implement state and local improvement plans, if any

TITLE I PROGRAMS (continued)

3. Instruction by highly qualified teachers
4. High-quality and ongoing professional development for teachers, principals, paraprofessionals, and, if appropriate, student services personnel, other staff, and parents/guardians to enable all students in the school to meet state academic achievement standards
5. Strategies to attract high-quality, highly qualified teachers to high-need schools
6. Strategies to increase parent involvement
7. Plans for assisting preschool children in the transition from early childhood programs to elementary school programs
8. Measures to include teachers in decisions regarding the use of academic assessments to provide information on and to improve the achievement of individual students and the overall instructional program
9. Activities to ensure that students who experience difficulty mastering the proficient and advanced levels of academic standards shall be provided with effective, timely additional assistance, which shall include measures for timely identification of students' difficulties and provision of sufficient information on which to base effective assistance
10. Coordination and integration of federal, state, and local services and programs

Targeted Assistance Programs

Any school that receives Title I funds but does not operate a schoolwide program shall use Title I funds to provide services to: (20 USC 6315)

1. Students in grades 3-12 identified by the school as failing, or most at risk of failing, to meet the state's academic achievement standards on the basis of criteria established by the district and supplemented by the school
2. Students in preschool through grade 2 selected solely on the basis of such criteria as teacher judgment, interviews with parents/guardians, and developmentally appropriate measures

A targeted assistance program shall: (20 USC 6315)

1. Use program resources to help participating students meet state academic achievement standards expected for all students

TITLE I PROGRAMS (continued)

2. Ensure that program planning is incorporated into existing school planning
3. Use effective methods and instructional strategies, based on scientifically based research, that strengthen the core academic program, give primary consideration to providing extended learning time, help provide an accelerated, high-quality curriculum, and minimize removing students from the regular classroom during regular school hours for instruction provided by Title I
4. Coordinate with and support the regular education program, which may include services to assist preschool students in the transition to elementary school programs
5. Provide instruction by highly qualified teachers
6. Provide opportunities for professional development for teachers, principals, paraprofessionals, and, if appropriate, student services personnel, other staff, and parents/guardians who work with participating students
7. Provide strategies to increase parent involvement
8. Coordinate and integrate federal, state, and local services and programs

Participation of Private School Students

The Superintendent or designee shall provide or contract to provide special educational services or other Title I benefits to eligible private school students residing in a participating school attendance area. Such services and benefits shall be provided on an equitable basis with participating public school students. (20 USC 6320, 7881)

Teachers, other educational personnel, and families of participating private school students shall have an opportunity to participate, on an equitable basis, in parent involvement activities and professional development pursuant to 20 USC 6318 and 6319. (20 USC 6320, 7881)

Each year the Superintendent or designee shall contact officials of private schools with students who reside within district boundaries, regardless of whether the private school they attend is located within the district or whether or not those officials have previously indicated any interest in program participation.

TITLE I PROGRAMS (continued)

The Superintendent or designee shall consult, in a meaningful and timely manner, with appropriate private school officials during the design and development of the district's Title I programs. Such consultation shall occur before the district makes any decision that affects the opportunities of eligible private school students to participate in Title I programs and shall include a discussion of: (20 USC 6320, 7881; 34 CFR 200.63)

1. How the needs of private school students will be identified
2. What services will be offered
3. How, where, and by whom the services will be provided
4. How the services will be academically assessed and how assessment results will be used to improve those services
5. The size and scope of the equitable services to be provided to private school students and the proportion of funds that is allocated for such services
6. The method or sources of data that are used to determine the number of students from low-income families in participating school attendance areas who attend private schools
7. How and when the district will make decisions about the delivery of service to such students, including a thorough consideration and analysis of the views of private school officials on the provision of services through a third-party provider
8. How, if the district disagrees with the views of private school officials on the provision of services through a third-party provider, the district will provide to private school officials a written analysis of the reasons that the district has chosen not to use a contractor

Meetings between district and private school officials shall continue throughout implementation and assessment of services. (20 USC 6320)

The Superintendent or designee shall maintain, and shall provide to the California Department of Education upon request, a written affirmation signed by officials of each participating private school that consultation has occurred. (20 USC 6320)

If the private school officials do not provide such affirmation within a reasonable period of time, the Superintendent or designee shall maintain records of the consultation or the offer of consultation.

TITLE I PROGRAMS (continued)

The Superintendent or designee also shall maintain records documenting that:

1. The needs of private school teachers and/or private school students were identified.
2. The funds made available were equitable to those allocated for public school students and teachers.
3. The district's program met the needs of the private school teachers and/or private school students.
4. The district made efforts to resolve any complaints made by private school representatives.

GIFTED AND TALENTED EDUCATION (GATE)

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs and provides that districts are deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements.

The Board of Trustees has established a Gifted and Talented Education Program according to the provisions of Education Code and will maintain the program according to law, and the regulations of the State Department of Education, and available funding.

*Legal Reference:*EDUCATION CODE*37223 Weekend classes for mentally gifted minors**41500-41573 Categorical education block grants**48800-48802 Enrollment of gifted students in community college**51740 Instruction by correspondence**51745-51749.3 Independent study programs**52200-52212 Gifted and talented education program**52800-52887 School-Based Program Coordination**64000 Categorical programs included in consolidated application**64001 Single plan for student achievement, consolidated application programs**76000-76002 Enrollment in community college*CODE OF REGULATIONS, TITLE 5*1633 Instruction by correspondence**3820-3870 Gifted and talented education program*

EDUCATION FOR HOMELESS CHILDREN

The Board of Trustees desires to ensure that homeless students have access to the same free and appropriate public education provided to other students within the district. The district shall provide homeless students with access to education and other services necessary for these students to meet the same challenging academic standards as other students.

Homeless students shall not be segregated into a separate school or program based on their status as homeless and shall not be stigmatized in any way.

The Superintendent or designee shall ensure that placement decisions for homeless students are based on the student's best interest as defined in law and administrative regulation.

Transportation

The district shall provide transportation for a homeless student to and from his/her school of origin when the student is residing within the district and the parent/guardian requests that such transportation be provided. If the student moves outside of district boundaries, but continues to attend his/her school of origin within this district, the Superintendent or designee shall consult with the Superintendent of the district in which the student is now residing to agree upon a method to apportion the responsibility and costs of the transportation.

*Legal Reference:*EDUCATION CODE*1980-1986 County community schools**2558.2 Use of revenue limits to determine average daily attendance of homeless children**39807.5 Payment of transportation costs by parents*UNITED STATES CODE, TITLE 42*11431-11435 McKinney-Vento Homeless Assistance Act*

EDUCATION FOR HOMELESS CHILDREN

Definitions

Homeless means students who lack a fixed, regular, and adequate nighttime residence and includes:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement
2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as regular sleeping accommodations for human beings
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
4. Migratory children who qualify as homeless because the children are living in conditions described in (1)-(3) above

School of origin means the school that the student attended when permanently housed or the school in which the student was last enrolled.

Best interest means, to the extent feasible, continuing a student's enrollment in the school of origin for the duration of his/her homelessness, except when doing so is contrary to the wishes of his/her parent/guardian.

Unaccompanied youth means a youth not in the physical custody of a parent or guardian.

District Liaison

The Superintendent designates the following staff person as the district liaison for homeless students:

Director of Pupil Services
3188 Quimby Road
San Jose, CA 95148
(408) 270-6840

EDUCATION FOR HOMELESS CHILDREN (continued)

The district's liaison for homeless students shall ensure that:

1. Homeless students are identified by school personnel and through coordinated activities with other entities and agencies
2. Homeless students enroll in, and have a full and equal opportunity to succeed in, district schools
3. Homeless families and students receive educational services for which they are eligible
4. Parents/guardians are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children
5. Notice of the educational rights of homeless children is disseminated at places where children receive services, such as schools, shelters, and soup kitchens
6. Enrollment disputes are mediated in accordance with law, Board policy, and administrative regulation
7. Parents/guardians are fully informed of all transportation services

Enrollment

Placement decisions for homeless students shall be based on the student's best interest. In determining a student's best interest, a homeless student shall, to the extent feasible, be placed in his/her school of origin, unless his/her parent/guardian requests otherwise.

When making a placement decision, the Superintendent or designee may consider the age of the student, the distance of the commute and the impact it may have on the student's education, personal safety issues, the student's need for special instruction, the length of anticipated stay in the temporary shelter or other temporary location, likely area of future housing, school placement of siblings, and the time remaining in the school year.

The student may continue attending his/her school of origin for the duration of the homelessness and until the end of any academic year in which he/she moves into permanent housing.

In the case of an unaccompanied youth, the district's homeless liaison shall assist in placement or enrollment decisions, consider the views of the student, and provide notice to the student of his/her appeal rights.

EDUCATION FOR HOMELESS CHILDREN (continued)

If the student is placed at a school other than his/her school of origin or the school requested by his/her parent/guardian, the Superintendent or designee shall provide the parent/guardian with a written explanation of the decision along with a statement regarding the parent/guardian's right to appeal the placement decision.

Once a placement decision has been made, the principal or designee shall immediately enroll the student in the school of choice, even if the parent/guardian is unable to provide the school with the records normally required for enrollment.

The principal or designee shall immediately contact the school last attended by the student to obtain the relevant records. If the student needs to obtain immunizations or does not possess immunization or other medical records, the principal or designee shall refer the parent/guardian to the district's liaison for homeless students. The liaison shall assist the parent/guardian in obtaining the necessary immunizations or records for the student.

Enrollment Dispute Resolution Process

If a dispute arises over school selection or enrollment in a particular school, the student shall be immediately admitted to the school in which enrollment is sought pending resolution of the dispute.

The parent/guardian shall be provided with a written explanation of the placement decision, including an explanation of the parent/guardian's right to appeal the decision. He/she shall also be referred to the district liaison.

The written explanation shall be complete, as brief as possible, simply stated and provided in language that the parent/guardian or student can understand. The explanation may include contact information for the district liaison, a description of the district's decision, notice of the right to enroll in the school of choice pending resolution of the dispute, notice that enrollment includes full participation in all school activities, and notice of the right to appeal the decision to the county office of education and, if the dispute remains unresolved, to the California Department of Education.

The district liaison shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute.

The liaison shall provide the parent/guardian a copy of the district's decision, dispute form, and a copy of the outcome of the dispute.

If a parent/guardian disagrees with the liaison's enrollment decision, he/she may appeal the decision to the Superintendent. The Superintendent shall make a determination within five working days.

EDUCATION FOR HOMELESS CHILDREN (continued)

If the parent/guardian wishes to appeal the district's placement decision, the district liaison shall forward all written documentation and related paperwork to the homeless liaison at the county office of education.

Regulation
approved: March 21, 2013
Instruction

EVERGREEN SCHOOL DISTRICT
San Jose, California

EDUCATION FOR FOSTER YOUTH

The Board of Trustees recognizes that foster youth may face significant barriers to achieving academic success due to their family circumstances, disruption to their educational program, and their emotional, social, and other health needs. To enable such students to achieve state and district academic standards, the Superintendent or designee shall provide them with full access to the district's educational program and implement strategies identified as necessary for the improvement of the academic achievement of foster youth in the district's local control and accountability plan (LCAP).

The Superintendent or designee shall ensure that placement decisions for foster youth are based on the students' best interests as defined in law and administrative regulation. To that end, he/she shall designate a staff person as a district liaison for foster youth to help facilitate the enrollment, placement, and transfer of foster youth and other related rights.

The Superintendent or designee and district liaison shall ensure that all appropriate staff, including, but not limited to, each principal, school registrar, and attendance clerk, receive training on the enrollment, placement, and rights of foster youth.

The Board desires to provide foster youth with a safe, positive learning environment that is free from discrimination and harassment and that promotes students' self-esteem and academic achievement. The Superintendent or designee shall develop strategies to build a foster youth's feeling of connectedness with his/her school, including, but not limited to, strategies that promote positive discipline and conflict resolution, the development of resiliency and interpersonal skills, and the involvement of foster parents, group home administrators, and/or other caretakers in school programs and activities.

To address the needs of foster youth and help ensure the maximum utilization of available funds, the Superintendent or designee shall collaborate with local agencies and officials including, but not limited to, the county placing agency, social services, probation officers, and juvenile court officers. The Superintendent or designee shall explore the feasibility of entering into agreements with these groups to coordinate services and protect the rights of foster youth.

Legal Reference: (see next page)

EDUCATION FOR FOSTER YOUTH (continued)

Legal Reference:

EDUCATION CODE

32228-32228.5 *Student safety and violence prevention*

42920-42925 *Foster children educational services*

48645-48646 *Juvenile court schools*

48850-48859 *Educational placement of students residing in licensed children's institutions*

49061 *Student records*

49069.5 *Foster care students, transfer of records*

49076 *Access to student records*

51225.3 *High school graduation*

56055 *Rights of foster parents in special education*

60851 *High school exit examination*

HEALTH AND SAFETY CODE

1522.41 *Training and certification of group home administrators*

1529.2 *Training of licensed foster parents*

WELFARE AND INSTITUTIONS CODE

300 *Children subject to jurisdiction*

309 *Investigation and release of child*

361 *Limitations on parental or guardian control*

366.27 *Educational decision by relative providing living arrangements*

602 *Minors violating law; ward of court*

726 *Limitations on parental or guardian control*

727 *Order of care, ward of court*

16000-16014 *Foster care placement*

UNITED STATES CODE, TITLE 29

794 *Rehabilitation Act of 1973, Section 504*

UNITED STATES CODE, TITLE 42

670-679b *Federal assistance for foster care programs*

11431-11435 *McKinney-Vento Homeless Assistance Act*

Revised: November 13, 2014
Policy
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

EDUCATION FOR FOSTER YOUTH

Definitions

Foster youth means a child who has been removed from his/her home pursuant to Welfare and Institutions Code 309, is the subject of a petition filed under Welfare and Institutions Code 300 or 602, or has been removed from his/her home and is the subject of a petition filed under Welfare and Institutions Code 300 or 602 or is a nonminor who is under the transition jurisdiction of a juvenile court, as described in Welfare and Institutions Code 450, and satisfies the criteria specified in Education Code 42238.01. (Education Code 42238.01, 48853.5)

Person holding the right to make educational decisions means a responsible adult appointed by a court pursuant to Welfare and Institutions Code 361 or 726.

School of origin means the school that the foster youth attended when permanently housed or the school in which he/she was last enrolled. If the school the foster youth attended when permanently housed is different from the school in which he/she was last enrolled, or if there is some other school that the foster youth attended within the preceding 15 months and with which the youth is connected, the district liaison for foster youth shall determine, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the youth, and in the best interests of the foster youth, which school is the school of origin. (Education Code 48853.5)

Best interests means that, in making educational and school placement decisions for a foster youth, consideration is given to, among other factors, educational stability, the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress, and the foster youth's access to academic resources, services, and extracurricular and enrichment activities that are available to all district students. (Education Code 48850, 48853)

District Liaison

The Superintendent designates the following position as the district's liaison for foster youth: (Education Code 48853.5)

Director of Pupil Services
3188 Quimby Road
San Jose, CA 95148
(408) 270-6840

EDUCATION FOR FOSTER YOUTH (continued)

The liaison for foster youth shall:

1. Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of students in foster care (Education Code 48853.5)
2. Ensure proper transfer of credits, records, and grades when students in foster care transfer from one school to another or from one district to another (Education Code 48645.5, 48853.5)

When a student in foster care is enrolling in a district school, the liaison shall contact the school last attended by the student to obtain, within two business days, all academic and other records. When a foster youth is transferring to a new school, the liaison shall provide the student's records to the new school within two business days of receiving the new school's request. (Education Code 48853.5)

3. When required by law, notify the foster youth's attorney and the representative of the appropriate county child welfare agency when the foster youth is undergoing any expulsion or other disciplinary proceeding, including a manifestation determination prior to a change in the foster youth's placement, when he/she is a student with a disability. (Education Code 48853.5, 48911, 48915.5, 48918.1)
4. As needed, make appropriate referrals to ensure that students in foster care receive necessary special education services and services under Section 504 of the federal Rehabilitation Act of 1973
5. As needed, ensure that students in foster care receive appropriate school-based services, such as counseling and health services, supplemental instruction, and after-school services
6. Develop protocols and procedures for creating awareness for district staff, including principals, school registrars, and attendance clerks, of the requirements for the proper enrollment, placement, and transfer of foster youth
7. Collaborate with the county placing agency, social services, probation officers, juvenile court officers, and other appropriate agencies to help coordinate services for the district's foster youth

EDUCATION FOR FOSTER YOUTH (continued)**Enrollment**

A student placed in a licensed children's institution or foster family home within the district shall attend programs operated by the district unless one of the following circumstances applies: (Education Code 48853, 48853.5)

1. The student has an individualized education program requiring placement in a nonpublic, nonsectarian school or agency, or in another local educational agency.
2. The parent/guardian or other person holding the right to make educational decisions for the student determines that it is in the best interest of the student to be placed in another educational program and submits a written statement to the district indicating that determination and that he/she is aware of the following:
 - a. The student has a right to attend a regular public school in the least restrictive environment.
 - b. The alternate educational program is a special education program, if applicable.
 - c. The decision to unilaterally remove the student from the district school and to place him/her in an alternate education program may not be financed by the district.
 - d. Any attempt to seek reimbursement for the alternate education program may be at the expense of the parent/guardian or other person holding the right to make educational decisions for the student.
3. At the initial placement or any subsequent change in placement, the student exercises his/her right to continue in his/her school of origin, as defined above.
 - a. The student may continue in the school of origin for the duration of the court's jurisdiction.
 - b. If the court's jurisdiction over a grade K-8 student is terminated prior to the end of a school year, the student may continue in his/her school of origin for the remainder of the school year.

EDUCATION FOR FOSTER YOUTH (continued)

- c. If the student is transitioning between school grade levels, he/she shall be allowed to continue in the district of origin in the same attendance area to provide him/her the benefit of matriculating with his/her peers in accordance with the established feeder patterns of school districts. A student who is transitioning to a middle school or high school shall be allowed to enroll in the school designated for matriculation in another school district.

The district liaison may, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the youth, recommend that the youth's right to attend the school of origin be waived and he/she be enrolled in any school that students living in the attendance area in which the foster youth resides are eligible to attend. All decisions shall be made in accordance with the foster youth's best interests. (Education Code 48853.5)

Prior to making any recommendation to move a foster youth from his/her school of origin, the liaison shall provide the youth and the person holding the right to make educational decisions for the youth with a written explanation of the basis for the recommendation and how the recommendation serves the youth's best interests. (Education Code 48853.5)

The role of the liaison shall be advisory with respect to placement decisions and determination of the school of origin. (Education Code 48853.5)

If the liaison, in consultation with the foster youth and the person holding the right to make educational decisions for the foster youth, agrees that the best interests of the youth would be served by his/her transfer to a school other than the school of origin, the principal or designee of the new school shall immediately enroll the foster youth. The foster youth shall be immediately enrolled even if he/she: (Education Code 48853.5)

1. Has outstanding fees, fines, textbooks, or other items or monies due to the school last attended
2. Does not have clothing normally required by the school, such as school uniforms
3. Is unable to produce records normally required for enrollment, such as previous academic records, proof of residency, and medical records, including, but not limited to, immunization records or other documentation

EDUCATION FOR FOSTER YOUTH (continued)

If the foster youth or a person with the right to make educational decisions for the foster youth disagrees with the liaison's enrollment recommendation, he/she may appeal to the Superintendent. The Superintendent shall make a determination within 30 calendar days of receipt of the appeal. Within 30 calendar days of receipt of the Superintendent's decision, the parent/guardian or foster youth may appeal that decision to the Board. The Board shall consider the issue at its next regularly scheduled meeting. The Board's decision shall be final.

If any dispute arises regarding the request of a foster youth to remain in the school of origin, the youth has the right to remain in the school of origin pending resolution of the dispute. (Education Code 48853.5)

Transportation

The district shall not be responsible for providing transportation to and from the school of origin.

Effect of Absences on Grades

The grades of a student in foster care shall not be lowered for any absence from school that is due to either of the following circumstances: (Education Code 49069.5)

1. A decision by a court or placement agency to change the student's placement, in which case the student's grades shall be calculated as of the date he/she left school
2. A verified court appearance or related court-ordered activity

Eligibility for Extracurricular Activities

A foster youth whose residence changes pursuant to a court order or decision of a child welfare worker shall be immediately deemed to meet all residency requirements for participation in interscholastic sports or other extracurricular activities. (Education Code 48850)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS

The Board of Trustees intends to provide English learners with challenging curriculum and instruction that develop proficiency in English as rapidly and effectively as possible while facilitating student achievement in the district's regular course of study.

English learners shall be provided English language development instruction targeted to their English proficiency level and aligned with state content standards. The district's program shall be based on sound instructional theory and adequately supported in order to assist students in accessing the full educational program.

The Superintendent or designee shall ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing.

The Superintendent or designee shall encourage parent and community involvement in the development, implementation, and evaluation of English language development programs. In addition, to support students' English language development, the Superintendent or designee may provide an adult literacy training program for parents/guardians and community members that leads to English fluency.

Identification and Assessment

The Superintendent or designee shall maintain procedures which provide for the accurate identification of English learners and an assessment of their proficiency and needs in the areas of listening, speaking, reading, and writing in English.

Once identified as an English learner, a student shall be annually assessed for language proficiency until he/she is reclassified based on criteria specified in administrative regulation.

Placement of English Learners

Students who are English learners shall be educated through "sheltered English immersion" or "structured English immersion," as defined in law and administrative regulation, during a temporary transition period not normally intended to exceed one year. Nearly all of the classroom instruction in the district's structured English immersion program shall be in English, but with the curriculum and presentation designed for students who are learning the language. (Education Code 305-306)

For purposes of determining the amount of instruction conducted in English in the structured English immersion classroom, "nearly all" shall be defined as follows:

Each English learner receives a program of instruction in English language development (ELD) in order to develop proficiency in English as rapidly and effectively as possible.

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

When an English learner has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, any district assessments, and/or other criteria adopted by the Board, he/she shall be transferred from a structured English immersion classroom to an English language mainstream classroom in which the instruction is overwhelmingly in English. (Education Code 305-306; 5 CCR 11301)

An English learner has acquired a "reasonable level of English proficiency" when he/she has achieved the following:

K-8 students have been assessed on the CELDT and are found to be at CELDT levels 4-5. Students receive daily instruction in ELD targeted to their language proficiency needs, and grade level instruction in the core content areas with ongoing attention and/or monitoring paid to the language demands of the instruction.

At any time during the school year, the parent/guardian of an English learner may have his/her child moved into an English language mainstream program. (5 CCR 11301)

Parental Exception Waivers

When allowed by law, the parent/guardian of an English learner may submit a request that his/her child be exempted from placement in a structured English immersion program and instead be placed in a class where he/she is taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. (Education Code 310-311)

Each waiver request shall be considered on its individual merits with deference given to parental preference for student placement.

A waiver request shall be granted in accordance with law unless the principal and educational staff have determined that an alternative program would not be better suited to the student's overall educational development. (5 CCR 11309)

If the Superintendent or designee denies the waiver request, he/she shall provide a written justification to the parent/guardian describing the reasons for the denial. A parent/guardian may appeal the decision in writing to the Board. The Board may consider the matter at its next regular Board meeting. The Board may decide not to hear the appeal, in which case the Superintendent's decision shall be final. If the Board hears the appeal, the Superintendent shall send the Board's decision to the parent/guardian within seven working days.

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)**Program Evaluation**

To evaluate the effectiveness of the district's educational program for English learners, the Superintendent or designee shall report to the Board, at least annually, regarding the progress of English learners towards proficiency in English, the number and percentage of English learners reclassified as fluent English proficient, the number and percentage of English learners who are or are at risk of being classified as long-term English learners, the achievement of English learners on standards-based tests in core curricular areas, and a comparison of current data with data from at least the previous year. The Superintendent or designee also shall provide the Board with regular reports from any district or schoolwide English learner advisory committees.

*Legal Reference:*EDUCATION CODE*300-340 English language education**430-446 English Learner and Immigrant Pupil Federal Conformity Act**33050 State Board of Education waiver authority**44253.1-44253.11 Qualifications for teaching English learners**48985 Notices to parents in language other than English**51101-51101.1 Rights of parents**52130-52135 Impacted Languages Act of 1984**52160-52178 Bilingual Bicultural Act**60200.7 Suspension of state instructional materials adoptions**60605.87 Supplemental instructional materials, English language development**60810-60812 Assessment of language development**62005.5 Continuation of advisory committee after program sunsets*CODE OF REGULATIONS, TITLE 5*11300-11316 English learner education**11510-11517 California English Language Development Test*UNITED STATES CODE, TITLE 20*1701-1705 Equal Educational Opportunities Act**6312 Local education agency plans**6801-6871 Title III, Language instruction for limited English proficient and immigrant students**7012 Parental notification*

Revised: November 13, 2014
 Policy
 adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
 San Jose, California

EDUCATION FOR ENGLISH LANGUAGE LEARNERS

English learner, also known as a limited English proficient student, means a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English. (Education Code 306)

Long-term English learner means an English learner who is enrolled in grades 6-12, has been enrolled in schools in the United States for more than six years, has remained at the same English language proficiency level for two or more consecutive years as determined by the California English Language Development Test (CELDT) or any successor test, and scores far below basic or below basic on the English language arts test of the California Standards Tests or any successor test. (Education Code 313.1)

English learner at risk of becoming a long-term English learner means an English learner who is enrolled in grades 5-11 in the United States for four years, scores at the intermediate level or below on the CELDT or any successor test, and scores in the fourth year at the below basic or far below basic level on the English language arts test of the California Standards Tests or any successor test. (Education Code 313.1)

English language classroom means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language. (Education Code 306)

English language mainstream classroom means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English. (Education Code 306)

Sheltered English immersion or structured English immersion means an English language acquisition process in which nearly all classroom instruction is in English but with the curriculum and presentation designed for students who are learning the language. (Education Code 306)

Bilingual education/native language instruction means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the student's native language. (Education Code 306)

Identification and Assessment

Upon enrollment in the district, each student's primary language shall be determined through use of a home language survey. (5 CCR 11307)

Any student who is identified as having a primary language other than English as determined by the home language survey, and who has not been previously identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be assessed for English proficiency using the CELDT. The test shall be administered between 60 calendar days before the date of first enrollment in a district school and 30 calendar days after the date of first enrollment, but not before July 1 of that school year. (5 CCR 11511)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

The CELDT shall be administered in accordance with 5 CCR 11511-11516.7.

Variations and accommodations in test administration may be provided pursuant to 5 CCR 11516-11516.7. Any student with a disability shall be allowed to take the CELDT with those accommodations for testing that the student has regularly used during instruction and classroom assessment as delineated in the student's individualized education program (IEP) or Section 504 plan that are appropriate and necessary to address the student's individual needs. If he/she is unable to participate in the assessment or a portion of the assessment with such accommodations, he/she shall be administered an alternate assessment for English language proficiency as set forth in his/her IEP. (5 CCR 11516-11516.7)

Parental Notifications

The district shall notify parents/guardians of their child's results on the CELDT within 30 calendar days following receipt of the results from the test contractor. (5 CCR 11511.5)

At the beginning of each school year, parents/guardians shall be informed of the placement of their child in a structured English immersion program and shall be notified of an opportunity to apply for a parental exception waiver. (Education Code 310; 5 CCR 11309)

Not later than 30 calendar days after the beginning of the school year, each parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title III funds shall receive notification of the assessment of his/her child's English proficiency. The notice shall include all of the following: (Education Code 440; 20 USC 7012)

1. The reason for the student's classification as an English learner
2. The level of English proficiency
3. A description of the program for English language development instruction, including a description of all of the following:
 - a. The manner in which the program will meet the educational strengths and needs of the student
 - b. The manner in which the program will help the student develop his/her English proficiency and meet age-appropriate academic standards
 - c. The specific exit requirements for the program, the expected rate of transition from the program into classrooms not tailored for English learners, and the expected rate of graduation from secondary school if applicable
 - d. Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

4. Information regarding a parent/guardian's option to decline to allow the student to be enrolled in the program or to choose to allow the student to be enrolled in an alternative program
5. Information designed to assist a parent/guardian in selecting among available programs, if more than one program is offered

Parental Exception Waivers

A parent/guardian may, by personally visiting the school, request that the district waive the requirements pertaining to the placement of his/her child in a structured English immersion program if one of the following circumstances exists: (Education Code 310-311)

1. The student already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the student scores at or above the state average for his/her grade level or at or above the fifth-grade average, whichever is lower.
2. The student is age 10 years or older, and it is the informed belief of the principal and educational staff that an alternate course of study would be better suited to the student's rapid acquisition of basic English skills.
3. The student already has been placed, for a period of not less than 30 calendar days during that school year, in an English language classroom and it is subsequently the informed belief of the principal and educational staff that the student has special physical, emotional, psychological, or educational needs and that an alternate course of educational study would be better suited to the student's overall educational development.

Upon request for a waiver, the Superintendent or designee shall provide parents/guardians with a full written description and, upon request, a spoken description of the intent and content of the structured English immersion program, any alternative courses of study, all educational opportunities offered by the district and available to the student, and the educational materials to be used in the different educational program choices. For a request for waiver pursuant to item #3 above, the Superintendent or designee shall notify the parent/guardian that the student must be placed for a period of not less than 30 calendar days in an English language classroom and that the waiver must be approved by the Superintendent pursuant to any guidelines established by the Governing Board. (Education Code 310, 311; 5 CCR 11309)

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EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

The principal and educational staff may recommend a waiver to a parent/guardian pursuant to item #2 or #3 above. Parents/guardians shall be informed in writing of any recommendation for an alternative program made by the principal and staff and shall be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the student. If the parent/guardian elects to request the alternative program recommended by the principal and educational staff, the parent/guardian shall comply with district procedures and requirements otherwise applicable to a parental exception waiver, including Education Code 310. (Education Code 311; 5 CCR 11309)

When evaluating waiver requests pursuant to item #1 above and other waiver requests for those students for whom standardized assessment data are not available, other equivalent assessment measures may be used. These equivalent measures may include district standards and assessment and teacher evaluations of such students.

Parental exception waivers pursuant to item #2 above shall be granted if it is the informed belief of the principal and educational staff that an alternate course of educational study would be better suited to the student's rapid acquisition of basic English language skills. (Education Code 311)

Parental exception waivers pursuant to item #3 above shall be granted by the Superintendent if it is the informed belief of the principal and educational staff that, due to the student's special physical, emotional, psychological, or educational needs, an alternate course of educational study would be better suited to the student's overall educational development. (Education Code 311)

All parental exception waivers shall be acted upon within 20 instructional days of submission to the principal. However, parental waiver requests pursuant to item #3 above shall not be acted upon during the 30-day placement in an English language classroom. Such waivers shall be acted upon no later than 10 calendar days after the expiration of that 30-day English language classroom placement or within 20 instructional days of submission of the waiver to the principal, whichever is later. (5 CCR 11309)

Any individual school in which 20 students or more of a given grade level receive a waiver shall offer an alternative class where the students are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Otherwise, the students shall be allowed to transfer to a public school in which such a class is offered. (Education Code 310)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

In cases where a parental exception waiver pursuant to item #2 or #3 above is denied, the parent/guardian shall be informed in writing of the reason(s) for the denial and advised that he/she may appeal the decision to the Board if the Board authorizes such an appeal, or to the court. (5 CCR 11309)

Waiver requests shall be renewed annually by the parent/guardian. (Education Code 310)

Reclassification/Redesignation

The district shall continue to provide additional and appropriate educational services to English learners for the purposes of overcoming language barriers until they: (5 CCR 11302)

1. Demonstrate English language proficiency comparable to that of the district's average native English language speakers
2. Recoup any academic deficits which may have been incurred in other areas of the core curriculum as a result of language barriers

English learners shall be reclassified as fluent English proficient when they are able to comprehend, speak, read, and write English well enough to receive instruction in an English language classroom and make academic progress at a level substantially equivalent to that of students of the same age or grade whose primary language is English and who are in the regular course of study. (Education Code 52164.6)

The following measures shall be used to determine whether an English learner shall be reclassified as fluent English proficient: (Education Code 313; 5 CCR 11303)

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the CELDT.
2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student.
3. Parent/guardian opinion and consultation. The Superintendent or designee shall provide the parent/guardian with notice and a description of the reclassification process and of his/her opportunity to participate in the process and shall encourage his/her involvement in the process.
4. Student performance on a statewide assessment of basic skills in English.

The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Students shall be monitored for at least two years following their reclassification. As part of this evaluation, the Superintendent or designee shall identify whether the student needs any additional academic support to ensure his/her language and academic success.

Advisory Committees

At the district level when there are more than 50 English learners in the district and at each school with more than 20 English learners, parent/guardian advisory committees shall be maintained to serve the advisory functions specified in law. (5 CCR 11308)

Parents/guardians of English learners shall constitute committee membership in at least the same percentage as their children represent of the total number of students in the school. (Education Code 52176)

The district's English language advisory committee shall advise the Board on at least the following tasks: (5 CCR 11308)

1. The development of a district master plan of education programs and services for English learners, taking into consideration the school site plans for English learners
2. The districtwide needs assessment on a school-by-school basis
3. Establishment of a district program, goals, and objectives for programs and services for English learners
4. Development of a plan to ensure compliance with applicable teacher or aide requirements
5. Administration of the annual language census
6. Review of and comment on the district's reclassification procedures
7. Review of and comment on the written notification required to be sent to parents/guardians pursuant to 5 CCR 11300-11316

In order to assist advisory members in carrying out their responsibilities, the Superintendent or designee shall ensure that committee members receive appropriate training and materials. This training shall be planned in full consultation with the members. (5 CCR 11308)

Board approved: September 12, 2013, November 13, 2014
Revised: October 9, 2014
Regulation
approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California

MIGRANT EDUCATION PROGRAM

The Board of Trustees desires to provide a comprehensive program for migrant students that attempts to mitigate the impact of educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that may inhibit the ability of migrant students to succeed in school. The district shall make use of available funds to provide supplementary services for migrant students.

The Superintendent or designee shall convene a parent advisory council to actively involve parents/guardians in planning, operating, and evaluating the district's migrant education program. (Education Code 54444.2)

The Superintendent or designee shall cooperate with the regional migrant service center in outreach and identification of eligible migrant students and in the provision of migrant education services. He/she shall also coordinate migrant education services with other programs within the district and with other public agencies that serve migrant workers and their families.

The Superintendent or designee shall plan for late enrollments of migrant students. He/she shall ensure that each migrant student is placed at the appropriate grade level and is provided services in accordance with his/her individual needs assessment and learning plan.

The Board shall monitor the results of statewide assessments of core academic subjects and English language development, as appropriate, for students enrolled in the district's migrant education services. In addition, the Superintendent or designee shall periodically report to the Board regarding the alignment of district services with the needs of students as identified in student needs assessments conducted pursuant to Education Code 54443.1. As necessary, the Board shall seek technical assistance from the migrant education regional service center and/or make changes in the services provided by the district in order to improve student achievement.

*Legal Reference:*EDUCATION CODE*54440-54445 Migrant education program*CODE OF REGULATIONS, TITLE 5*3080 Application of uniform complaint procedures**4600-4687 Uniform complaint procedures*UNITED STATES CODE, TITLE 20*6311 Title I state plan**6381-6381k Even Start family literacy program**6391-6399 Migrant education program**7881 Services for private school students*CODE OF FEDERAL REGULATIONS, TITLE 34*200.81-200.89 Migrant education program*

MIGRANT EDUCATION PROGRAM

Eligibility

A student age 3 to 21 years shall be eligible for the district's migrant education program if he/she meets the criteria specified in 20 USC 6399 and 34 CFR 200.81 as verified by a migrant education recruiter.

The district shall give first priority for services to migrant students who are failing, or most at risk of failing, to meet state content standards and challenging state performance standards, and whose education has been interrupted during the regular school year. (20 USC 6394)

A student who ceases to be a migrant student during a school term shall be eligible for services until the end of the term. If comparable services are not available through other programs, a student who is no longer migratory may continue to receive services for one additional school year. Students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation. (20 USC 6394)

The district shall provide services to eligible private school students residing within the district on an equitable basis with participating public school students. (20 USC 7881; 34 CFR 200.87)

Student Records

The Superintendent or designee shall maintain records documenting the eligibility of students enrolled in the district's migrant education program.

The Superintendent or designee shall acquire education and health records from migrant students' previous school districts, as appropriate.

When a migrant student transfers to another district, his/her records shall be provided to the receiving district upon request at no cost in order to assist that district in meeting the needs of the student. (20 USC 6398)

Program Components

The migrant education program shall provide: (Education Code 54443.1)

1. A general needs assessment summarizing the needs of the population to be served
2. Individual assessment of the educational and relevant health needs of each participating student, within 30 days of enrollment

MIGRANT EDUCATION PROGRAM (continued)

3. A comprehensive program to meet the educational, health, and related needs of participating students which supplements the district program and which provides:
 - a. Instructional services, including academic, remedial and compensatory, multicultural, and vocational instruction
 - b. Preschool services in accordance with Education Code 54443
 - c. Other educational services that are not otherwise available in sufficient quantity or quality to eligible migrant students
 - d. Instructional materials and equipment necessary for appropriate services
 - e. Other related services needed to enable migrant students to participate effectively in instructional services
 - f. The coordination and teaming of existing resources serving migrant students, such as bilingual-crosscultural education, health screening, and compensatory education
4. A brief individual learning plan listing the services to be provided to each student, which shall be given to the parent/guardian in writing or at a parent/guardian conference, annually and each time the student moves to a new district
5. Staffing and staff development plans and practices to meet the needs of students and implement the program
6. Parent/guardian and community involvement as specified in Education Code 54444.2, including, but not necessarily limited to, the establishment of a parent/guardian advisory council
7. Evaluations which include annual student progress and overall program effectiveness and quality control reports

The migrant education program shall provide for the same opportunities for parent involvement that are provided to parents/guardians for federal Title I programs. (20 USC 6394)

Contingent upon funding, the district shall provide home-based and/or school-based family literacy services to migratory families to enhance parents/guardians' literacy levels, parenting skills, and English language skills.

MIGRANT EDUCATION PROGRAM (continued)

Parent Advisory Council

The parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant students and shall be elected by the parents/guardians of students enrolled in the district's migrant education program. The composition of the council shall be determined by the parents/guardians at a general meeting to which all parents/guardians of participating students shall be invited. The parents/guardians shall be informed, in a language they understand, that they have the sole authority to decide on the composition of the council. (Education Code 54444.2)

At least two-thirds of the advisory council shall consist of parents/guardians of migrant students. (Education Code 54444.2)

All parent/guardian candidates for the council shall be nominated by parents/guardians. Nonparent candidates, such as teachers, administrators, other school personnel, or students, shall be nominated by the groups they represent. All other community candidates shall be nominated by the parents/guardians. (Education Code 54444.2)

The parent/guardian advisory council shall meet at least six times during the year and shall: (Education Code 54444.4)

1. Establish program goals, objectives, and priorities
2. Review annual needs assessments, program activities for each school, and individual learning plans
3. Advise on the selection, development, and reassignment of migrant education program staff
4. Participate actively in planning and negotiating program applications and service agreements
5. Perform all other responsibilities required under state and federal laws or regulations

The Superintendent or designee shall establish and implement a training program for advisory council members to enable them to carry out their responsibilities. The training program shall be developed in consultation with the council and shall include appropriate training materials in a language understandable to each member. (Education Code 54444.2)

MIGRANT EDUCATION PROGRAM (continued)

The Superintendent or designee shall provide the council, without charge, a copy of all applicable state and federal migrant education statutes, rules, regulations, guidelines, audits, monitoring reports, and evaluations. Upon request, these materials also shall be provided without charge to each member of the council. (Education Code 54444.2)

SUMMER LEARNING PROGRAMS

The Board of Trustees recognizes that an extended break from the instructional program may result in significant learning loss, especially among disadvantaged and low-achieving students, and desires to provide opportunities during the summer for students to practice essential skills and make academic progress.

Summer programs offered by the district shall be aligned with the district's local control and accountability plan (LCAP), other applicable district and school plans, and the educational program provided during the school year. When feasible, summer programs shall blend high-quality academic instruction in core curricular and/or elective subjects with recreation, nutrition programs, social and emotional development, and support services that encourage attendance, student engagement in learning, and student wellness.

Summer School

The Superintendent or designee, with Board approval, may establish summer school day and/or evening classes.

The district's summer school program may be used to provide supplemental instruction to students needing remediation and/or enrichment in core academic subjects.

As appropriate, priority for enrollment in summer school programs shall be given to district students who:

1. Have not made sufficient progress toward passing the state exit examination required for high school graduation
2. Have been retained or are at risk of being retained at their grade level
3. Demonstrate academic deficiencies in core curriculum areas
4. Are in targeted student groups identified in the district's LCAP as needing increased or improved services to succeed in the educational program

Sites for summer school programs may be rotated in an effort to make summer school programs more accessible to all students, regardless of residence or regular attendance area, and to accommodate the maintenance needs of district schools.

Additional Summer Learning Opportunities

The Superintendent or designee may collaborate with parents/guardians, city and county agencies, community organizations, child care providers, and/or other interested persons to develop, implement, and build awareness of organized activities that support summer learning.

Legal Reference: (see next page)

SUMMER LEARNING PROGRAMS (continued)

Legal Reference:

EDUCATION CODE

8482-8484.6 *After School Education and Safety Program*

8484.7-8484.9 *21st Century Community Learning Centers*

37252-37254.1 *Supplemental instruction*

39837 *Transportation to summer employment programs*

41505-41508 *Pupil Retention Block Grant*

41976.5 *Summer school programs, substantially disabled persons or graduating high school seniors*

42238.01-42238.07 *Local control funding formula*

42238.8 *Revenue limit per unit of average daily attendance*

48070-48070.5 *Promotion and retention*

51210 *Areas of study for elementary schools*

51220 *Areas of study for grades 1-6*

51730-51732 *Powers of governing boards (authorization for elementary summer school classes)*

52060-52077 *Local control and accountability plan*

54444.3 *Summer program for migrant students*

56345 *Extended-year program for special education students*

58700-58702 *Credit towards summer school apportionments for tutoring and homework assistance*

58806 *Summer school apportionments*

60851 *Supplemental instruction toward exit examination*

CODE OF REGULATIONS, TITLE 5

3043 *Extended school year, special education students*

11470-11472 *Summer school*

UNITED STATES CODE, TITLE 20

6311-6322 *Improving basic programs for disadvantaged students*

7171-7176 *21st Century Community Learning Centers*

SUPPLEMENTAL INSTRUCTION

The Board of Trustees recognizes that high-quality supplemental instructional programs can motivate and support students to attain grade-level academic standards, overcome academic deficiencies, and/or acquire critical skills. The district shall offer programs of direct, systematic, and intensive supplemental instruction to meet student needs.

Supplemental instruction may be offered outside the regular school day, including during the summer, before school, after school, on Saturday, and/or during intersessions. It may also be provided during the regular school day provided it does not supplant the student's instruction in the core curriculum areas or physical education.

Supplemental instruction shall be offered to:

1. Eligible students from low-income families whenever the district or a district school receiving federal Title I funds has been identified by the California Department of Education for program improvement for two or more consecutive years (20 USC 6316)
2. Students who have been recommended for retention at their current grade level or are at risk of retention (Education Code 48070.5)
3. Students in grades 7-12 who do not demonstrate "sufficient progress" toward passing the state exit examination required for high school graduation (Education Code 60851)

"Sufficient progress" shall be determined based on a student's grades and on a student's results on state assessments administered pursuant to Education Code 60640-60649 and the minimum levels of proficiency recommended by the State Board of Education.

The curriculum of the supplemental instructional program shall reflect state academic content standards to the extent that the district curriculum is aligned with those state standards, and shall be designed to assist students to succeed on the exit exam. (Education Code 60851)

In addition, contingent on the district budget and local control and accountability plan (LCAP), supplemental instruction may be offered to students who:

1. Based on state assessment results, grades, or other indicators, demonstrate academic deficiencies in core curriculum areas that may jeopardize their attainment of academic standards
2. Are in targeted student groups identified in the district's LCAP as needing increased or improved services to succeed in the educational program

SUPPLEMENTAL INSTRUCTION (continued)

As appropriate, supplemental instruction may be provided through a classroom setting, individual or small group instruction, technology-based instruction, and/or an arrangement with a community or other external service provider.

When determined to be necessary by the principal or designee, a student may be required to participate in a supplemental instruction. In such cases, written parent/guardian consent shall be obtained for the student's participation.

*Legal Reference:*EDUCATION CODE*37200-37202 School calendar**37223 Weekend classes**37252-37254.1 Supplemental instruction, summer school**41505-41508 Pupil Retention Block Grant**42238.01-42238.07 Local control funding formula**46100 Length of school day**48070-48070.5 Promotion and retention**48200 Compulsory education**48985 Translation of notices**51210-51212 Courses of study, elementary schools**51220-51228 Courses of study, secondary schools**52060-52077 Local control and accountability plan**60603 Definitions, core curriculum areas**60640-60649 California Assessment of Student Performance and Progress**60850-60859 High school exit examination*CODE OF REGULATIONS, TITLE 5*11470-11472 Summer school*UNITED STATES CODE, TITLE 20*6316 Program improvement schools and districts*

HOME AND HOSPITAL INSTRUCTION

A student with a temporary disability which makes school attendance impossible or inadvisable shall receive individual instruction in the student's home or in a hospital or other residential health facility, excluding state hospitals. This instruction applies to students incurring a physical, mental or emotional disability after which they can reasonably be expected to return to regular day classes or an alternative education program without special intervention. It does not apply to students identified as individuals with exceptional needs pursuant to Education Code 56026.

Home or hospital instruction shall be provided only by teachers with valid California teaching credentials who consent to the assignment.

The district shall offer at least one hour of instruction for every day of instruction offered by the district in the regular education program. No student shall be credited with more than five days of attendance per calendar week or credited with more than the total number of calendar days that regular classes are offered by the district in any fiscal year.

Insofar as possible, the teacher providing home or hospital instruction shall consult with the student's current classroom teacher(s) so as to provide a continuity of instruction that enables the student to stay abreast with the regular school program.

The Superintendent or designee may require verification through any reasonable means that the student requires home instruction. In addition, this verification shall also state that the disabling condition will not expose the teacher to a contagious disease that can be transmitted through casual contact. Home or hospital instruction shall not be denied to students with Hepatitis B, herpes or HIV/AIDS, as long as the home or hospital practices current preventive protocol as determined by the U.S. Centers for Disease Control.

Nondistrict Students

A student of another district who is temporarily disabled and confined to a hospital or health facility within this district shall be eligible to receive individual instruction in this district.

In such circumstances, it is the responsibility of the parent/guardian to notify the district of the student's presence in a qualifying hospital.

Upon receiving such notification, the Superintendent or designee shall:

1. Within five working days of the notification, determine whether the student is able to receive individualized instruction and, if so, when it shall begin. Instruction shall begin no later than five working days after the Superintendent or designee has determined that the student is able to receive individualized instruction.

HOME AND HOSPITAL INSTRUCTION (continued)

2. Within five working days of the beginning of the individualized instruction, the Superintendent or designee shall provide written notification to the district in which the student was previously enrolled stating that the student shall not be counted by that district for purposes of computing average daily attendance, effective the date on which individualized instruction began.

Alternatively, the Superintendent or designee may enter into an agreement with the district in which the student was previously enrolled to have that district provide the individualized instruction.

Parental Notifications

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians that:

1. Individual instruction is available for temporarily disabled students as prescribed by Education Code 48206.3.
2. If a student becomes temporarily disabled, it is the parent/guardian's responsibility to notify the receiving district of the student's presence in a qualifying hospital.

Legal Reference:

EDUCATION CODE

44865 Qualifications for home teachers

45031 Home teachers

48200 Minimum school day

48206.3 Pupils with temporary disabilities; individual instruction; definitions; computing average daily attendance

48206.5 Continuation of individual instruction programs for students with temp. disabilities

48207 Pupils with temporary disabilities in hospitals out- side of school district; compliance with residency requirements

48208 Presence of pupils with temporary disabilities in qualifying hospitals; notice by parents or guardians; commencement of individualized instruction

48980 Required notification of rights and availability of nutrition and individualized instruction programs

51800-51802 Employment of home teachers

CODE OF REGULATIONS, TITLE 5

421 Method of verification

423 Prolonged illness

EVALUATION OF THE INSTRUCTIONAL PROGRAM

The Board of Trustees recognizes that it is accountable to students, parents/guardians, and the community for the effectiveness of the district's educational program in meeting district goals for student learning. The Superintendent or designee shall conduct a continual evaluation of the curriculum and the instructional program in order to improve student achievement.

The Superintendent or designee shall provide the Board and the community with regular reports on student progress toward Board-established standards of expected achievement at each grade level in each area of study. In addition, he/she shall evaluate and report data for each district school and for every numerically significant subgroup of the student population, including, but not limited to, school and subgroup performance on statewide achievement indicators.

Based on these reports, the Board shall take appropriate actions to maintain the effectiveness of programs and to improve the quality of education that district students receive.

Categorical Program Monitoring

The Superintendent or designee shall cooperate with the California Department of Education (CDE) in the categorical program monitoring process to ensure that district categorical programs comply with federal and state laws and regulations. The Superintendent or designee shall report to the Board regarding the results of this monitoring process.

On an ongoing basis, the Superintendent or designee shall conduct a district self-evaluation which may utilize tools developed by the district or the CDE to ensure compliance of district categorical programs with legal requirements.

Evaluation of Consolidated Categorical Programs

The Superintendent or designee shall annually determine whether the district's categorical programs funded through the state's consolidated application are supportive of the core curriculum and are effective in meeting the needs of the students they are intended to serve. As a basis for this evaluation, the Superintendent or designee shall recommend for Board approval the specific, measurable criteria that shall be used at each school and at the district level. These criteria shall include, but not necessarily be limited to, progress toward goals contained in the school's single plan for student achievement and progress of the total student population and each numerically significant subgroup toward growth targets on the statewide Academic Performance Index.

Legal Reference: (see next page)

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

Legal Reference:

EDUCATION CODE

33400-33407 Educational evaluations

35178.4 Notice of accreditation status

44662 Evaluation and assessment guidelines, certificated employee performance

48985 Compliance with translation of parental notifications

51041 Education program, evaluation and revisions

51226 Model curriculum standards

52050-52059 Public Schools Accountability Act

54650-54659 Education Improvement Incentive Program

62005.5 Failure to comply with purposes of funds

64000-64001 Consolidated application process

CODE OF REGULATIONS, TITLE 5

3930-3937 Program requirements

3942 Continuity of funding

UNITED STATES CODE, TITLE 20

6311 Adequate yearly progress