



# Policy News

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### Customer Satisfaction Is Our Goal

If you have any comments, suggestions or questions about CSBA's sample policies and regulations or our various policy services, please contact Martin Gonzalez, deputy executive director, Financial Programs and Policy Services, at (800) 266-3382 or [mgonzalez@csba.org](mailto:mgonzalez@csba.org).

## Policy implications of new legislation

With the close of the regular 2009 legislative session and some of the extraordinary sessions, CSBA's policy services have begun to address the major issues impacting K-12 education including, but not limited to, interdistrict attendance, an exemption from the high school exit examination requirement for students with disabilities, the education of children of military families and education of foster youth. Additional legislative changes will be addressed in upcoming editions of CSBA's policy updates, including any changes that may come from the fifth extraordinary session called this September regarding California's application for Race to the Top funds.

### Interdistrict attendance

After much controversy, Governor Schwarzenegger signed SB 680 which reauthorizes the "school district of choice" program (Education Code 48300-48316) until July 1, 2016. Under this program, districts may elect to become a school district of choice and then accept transfers from other districts, with the number of transfers accepted to be determined by the board. Unlike the interdistrict attendance permit option (Education Code 46600-46611), school districts of choice are allowed to admit students from other districts without first seeking permission from the student's district of residence.

While some districts like the program because of its ability to increase ADA, other districts receive a negative impact on ADA when students transfer out. Because of this conflict, the program had become part of the budget battle in 2007 and was reauthorized only until June 30, 2009, and only for districts that had previously elected to be a school district of choice prior to July 1, 2007. Along with extending the program, SB 680 deleted the requirement that limited participation to those districts that had elected to become a school district of choice prior to July 1, 2007. BP/AR 5117 - Interdistrict Attendance has been revised to reflect the new program requirements.

In addition, SB 680 requires a school district of choice, at its expense, to ensure that its annual audit includes a review of the district's compliance with program requirements regarding (1) implementation of a random, unbiased selection process to determine student transfers when the number of applications exceeds the number of transfers the board has determined it can accept, and (2) communications to parents that are factually accurate and do not target individual parents or neighborhoods based on a student's academic or athletic performance or other personal characteristic. AR 3460 - Financial Reports and Accountability has been revised to reflect the requirement to notify the district's auditor that the audit must include this review.

Because the determination of student transfers is now part of the audit process, districts should be careful to clearly establish the number of transfers that will be accepted and to record the board's action in the minutes of the board meeting. The number of transfers may change from year to year, so this determination may need to be done annually or on a schedule determined by the district and should take into consideration the schools, grade levels and programs that



will be able to accept transfer students.

Regardless of whether or not a district is a school district of choice, as a “district of residence” it has the authority to limit transfers out of the district, within certain percentages of ADA specified in Education Code 48307. SB 680 added that the district of residence also may limit the number of students transferring out when the county superintendent of schools has determined that the district has a negative budget certification or that, because of the transfers, the district would not meet state standards and criteria for fiscal stability.

### **High school exit exam: Students with disabilities**

With the passage of ABX 4 2 in July, students with disabilities are again exempt, beginning with the 2009-10 school year, from the requirement to pass the high school exit exam as a condition of graduation (although they must still take the exam in grade 10 as part of the census administration for compliance with the No Child Left Behind Act). Previously, students with disabilities in the classes of 2006 and 2007 were granted an exemption from the graduation requirement, but the exemption expired for the classes of 2008 and 2009. This latest exemption lasts until the State Board of Education either implements an alternative means for students with disabilities to demonstrate achievement in the standards measured by the exam or determines that an alternative to the exam is not feasible.

CSBA sample AR 6162.5 - High School Exit Examination has been revised to reflect the exemption.

### **Children of military families**

The Interstate Compact on Educational Opportunity for Military Children, which seeks to alleviate barriers to educational success for children whose parents are in active duty in the military, was ratified by California through the passage of AB 343. The compact recognizes that such parents may experience frequent moves or deployments and provides uniform means for states to deal with issues of student enrollment, placement, advancement, eligibility for extracurricular activities and on-time graduation. Districts are required to be flexible in applying their local rules in order to meet the needs of these students.

CSBA has issued a new sample policy and administrative regulation reflecting the provisions of the compact (BP/AR 6173.2 - Education of Children of Military Families) and has also revised BP 6145 - Extracurricular and Cocurricular Activities, BP 6145.2 - Athletic Competition and BP 6146.1 - High School Graduation Requirements as necessary.

Previous legislative efforts to ratify the compact had stalled due to concerns about the fiscal and programmatic impact of the compact and whether it was consistent with state education laws. A statewide task force was formed in 2008 to examine these concerns and make recommendations. The task force studied the unique challenges facing school-aged children of military families, whose number is estimated at over 61,000 in California (the third largest in the nation) and determined that the compact would not impact school district costs. The task force recommended adoption of the compact in California provided that several nonmaterial changes were made. The task force’s report, along with other resources to help address the needs of children of military families, is available through the California Department of Education at [www.cde.ca.gov/ls/pf/mc](http://www.cde.ca.gov/ls/pf/mc).

The Interstate Commission and its Rules Committee continue to meet, and it is possible that additional guidance and rules will be forthcoming. CSBA will keep districts informed of any policy implications resulting from the commission’s ongoing work.

## Foster youth

Like children of military families, foster youth often experience educational disruption and a lack of connectedness to school. Nearly half will not complete high school and less than three percent will go on to a four-year college, according to a report by the California Education Collaborative for Children in Foster Care (*Ready to Succeed: Changing Systems to Give California's Foster Children the Opportunities They Deserve to be Ready for and Succeed in School*, 2008, available at [www.cftl.org/publications.php](http://www.cftl.org/publications.php)).

To address the needs of foster youth, state law (Education Code 48850-48859) establishes the right of foster youth to continue attending their school of origin and requires districts to ensure that foster youth have access to the same academic resources, services and extracurricular activities that are available to all students.

Two new bills signed by the governor further address the transition of foster youth who change residences. AB 167 exempts foster youth who transfer during grades 11-12, either between districts or between high schools within a district, from local graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school while he/she remains eligible for foster care. This exemption does not apply to course requirements set by state law or to the high school exit examination. Thus, such students will be subject only to course requirements required by state law, not to any additional graduation requirements established by the district.

The new law also requires districts to notify any student and the person making educational decisions for the student if any of the requirements waived will affect the student's ability to gain admission to a postsecondary institution.

The second bill, AB 81, provides that foster youth who change residences will immediately be deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports.

These provisions are now reflected in BP/AR 6173.1 - Education for Foster Youth, BP 6146.1 - High School Graduation Requirements, BP 6145 - Extracurricular and Cocurricular Activities and BP 6145.2 - Athletic Competition.

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## Addressing categorical program flexibility in district policies

As reported in the July edition of the Governance and Policy Services News, ABX4 2 and SBX3 4 grant districts flexibility in 39 Tier 3 categorical programs. The July packet of CSBA sample policies included BP 3110 - Transfer of Funds which reflects the requirement that, as a condition of receipt of the categorical funds, the board must hold a public hearing to discuss, approve or disapprove the proposed use of the funding. Many boards have already taken advantage of this flexibility in their 2009-10 budget approval process.

Once districts choose to exercise the categorical flexibility, they need to consider how this flexibility will impact program implementation. SBX3 4 grants flexibility in categorical program requirements by specifying that districts shall be "deemed in compliance with the program and funding requirements contained in statutory, regulatory and provisional language" for each of the Tier 3 categorical programs for the 2008-09 through 2012-13 fiscal years. Therefore, during the period of categorical flexibility, districts may choose to suspend the requirements specified in law for any Tier 3 categorical program, even one from which the district has not transferred funds.





Because CSBA sample board policies and administrative regulations currently reflect legal requirements, many of these requirements may not be applicable during this period of flexibility. A district's policies and regulations based on CSBA's samples are likely also affected.

CSBA has revised BP 2210 - Administrative Discretion Regarding Board Policy as an "umbrella policy" authorizing the temporary suspension of policies and regulations, or some provisions within the policies and regulations, based on the categorical program flexibility. In addition, CSBA has developed a policy advisory with recommended actions to ensure that a district's local policy manual accurately reflects the district's exercise of flexibility (see *Policy Implications of Categorical Program Flexibility* at [www.csba.org/pab.aspx](http://www.csba.org/pab.aspx)). Both of these documents are included in the November packet of policies.

As detailed in the advisory, CSBA has developed a cautionary notice that will be placed at the top of each affected sample policy and regulation to advise readers that certain provisions of the document may not be in effect during the period of flexibility. The advisory lists each of the 39 Tier 3 categorical programs and the relevant affected CSBA samples, over 40 policies and regulations in all. Depending on how the flexibility is being exercised locally, districts may need to either include a similar cautionary notice on each of their affected policies and regulations or revise the materials to reflect which provisions are being retained and which are being temporarily suspended. Districts are encouraged to review this advisory and take appropriate action.

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## **"Red Flags" rule delayed**

On October 30, the Federal Trade Commission announced that it will delay enforcement of the "Red Flags" rule (16 CFR 681) dealing with identity theft prevention until June 1, 2010. Implementation had previously been delayed several times.

The requirement to develop and implement a written theft prevention program applies only to districts that are "creditors" as defined in law. Most school districts do not have a practice of selling products or services that are paid for by consumers over time or after the product or service has been used. However, if a district might be considered a creditor, it should carefully review the Red Flags rule and develop a program to detect and reasonably respond to red flags or warning signs of identity theft. See the July issue of Governance and Policy Services News for further guidance.

FTC guidance on complying with the rule is available at [www.ftc.gov/redflagrule](http://www.ftc.gov/redflagrule).

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## **CSBA education opportunities**

To register online or learn more about any of the following education opportunities, go to the Events Calendar on CSBA's Web site at [www.csba.org](http://www.csba.org) or contact CSBA at (800) 266-3382.

### **Roadmap to Policy Updates**

CSBA's complimentary Roadmap to Policy Updates workshop helps districts maximize the benefits they receive from CSBA's policy services. In this 2½ hour workshop, participants will explore and discuss best practices and procedures for keeping the district's policy manual current through CSBA's GAMUT Online and Manual Maintenance services and will discover ways to access district policies online.

Workshops currently scheduled for spring 2010 (with other dates and locations to be added) include:

- March 24 - Santa Clara County Office of Education
- May 18 - Shasta County Office of Education

## Policy Online Webinar

Districts that have placed their policy manuals online through CSBA's Policy Online service are invited to participate in a Webinar to hear more about the features of the service. "My Policy Manual is Online: Now What?" will assist board members and district staff with locating, viewing, printing and downloading district policies. Districts will also learn how to increase transparency by giving staff and the public access to their policy manual.

The complimentary Webinar is scheduled for January 14, 2010, from 2:00-3:00 p.m.

## AgendaOnline Webinars

CSBA's Governance Technology staff will demonstrate CSBA's AgendaOnline service in two complimentary one-hour Webinars in early 2010. AgendaOnline allows districts and county offices of education to develop, publish and search board meeting agendas, minutes and back-up documents while saving time and resources.

One Webinar is intended for any potential user of the service and will include demonstrations from the staff, board member and public views. A second Webinar, to be held in a special evening session, is intended for board members and will demonstrate board-specific features like sticky notes and closed session item detail views. These Webinars will be conducted on the following dates:

January 28 - AgendaOnline general Webinar

February 9 - AgendaOnline board member Webinar

## Physical activity policy trainings

CSBA, in partnership with California Project LEAN (Leaders Encouraging Activity and Nutrition) and with support from The California Endowment, will be offering training on "Policy in Action: Maximizing Physical Activity Opportunities in Tough Budget Times" in early 2010. The workshop will address the development, implementation, monitoring and evaluation of district policies on physical education and physical activity, including:

- Engaging students in moderate to vigorous physical activity for at least 50 percent of P.E. instructional time
- Monitoring and evaluating P.E. instructional minutes
- Integrating physical activity into the classroom
- Supporting joint use of facilities for physical activity
- Supporting Safe Routes to School programs

School board members and their district teams (which can include assistant superintendents, wellness coordinators and principals who assist with implementation of policy on P.E. and physical activity) are encouraged to attend. The sessions, all scheduled from 9:30 a.m. to 3:30 p.m., will be held:

February 17 - Fresno County Office of Education

February 23 - Redding Library

March 11 - Alameda County Office of Education





## New resources

### Physical activity

Two new fact sheets from CSBA and California Project LEAN assist districts that want to incorporate physical activity opportunities throughout the school day in order to benefit students' physical and mental health as well as their academic performance.

*Moderate to Vigorous Physical Activity in Physical Education to Improve Health and Academic Outcomes* cites research indicating that students are not sufficiently active during P.E. and presents strategies for improving the quality of P.E. programs. Specific actions for boards are included.

*Maximizing Opportunities for Physical Activity During the School Day* describes opportunities outside the P.E. program for districts to provide physical activity to benefit students' physical and mental health, such as integrating physical activity into the classroom curriculum, classroom breaks, recess, lunch, school clubs, fundraising and competitions.

These fact sheets, along with additional resources on physical activity, are available at [www.csba.org/wellness.aspx](http://www.csba.org/wellness.aspx).

This project was supported by a grant from The California Endowment.

### Green schools

A new CSBA policy brief, *Green Schools: An Overview of Key Policy Issues*, outlines actions that districts and county offices of education can take to use energy and other natural resources more efficiently, reduce use of toxic materials and improve indoor and outdoor air quality. It also provides background information on the academic, health, financial and environmental benefits of green schools.

The brief is available at [www.csba.org/pab.aspx](http://www.csba.org/pab.aspx). Board members and superintendents are encouraged to read this brief as they review CSBA's sample board policy BP 3510 - Green School Operations (issued in July) or other related policies.

Support for the project was provided by The California Endowment through a grant designed to improve indoor air quality and asthma management in California schools.

### Collaboration for healthy communities

Although schools play a critical role in meeting the health needs of students, partnerships with cities, counties, businesses, community groups and nonprofit organizations can help supply expertise, funding, technical assistance, volunteer hours, supplies and curricular materials which can be costly for schools to obtain in these difficult economic times. To encourage collaboration and provide support for community engagement around student wellness, CSBA and the Cities Counties Schools Partnership have created *Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*.

The comprehensive guide discusses the impact that student health has on academic achievement; foundations of collaboration; steps in creating a successful collaboration; examples of successful collaborations around student wellness; case studies from across the state; and resources such as model joint use agreements, a checklist for starting a collaborative, sample board policies, board resolutions, district motions and sample guiding principles.

This project was made possible by a grant from the Vitamin Cases Consumer Settlement Fund. The guide may be downloaded for free at [www.csba.org/wellness.aspx](http://www.csba.org/wellness.aspx).

## H1N1 and other pandemic influenza

In October, the CDE released a draft *Pandemic Influenza Manual* to help districts and county offices of education deal with H1N1 influenza (swine flu) and other future influenza outbreaks. In addition to discussing strategies to prevent the spread of flu viruses, the manual provides extensive information about the potential effect of student dismissals ordered by local or state health officials, including notifications and reporting procedures, fiscal impact and programmatic impact (e.g., accountability and assessment programs, special education, food services, after-school programs).

The CDE is calling the manual a “draft” in order to encourage users of the manual to provide feedback to the CDE to improve its usefulness.

The manual is available at [www.cde.ca.gov/ls/he/hn/fluinfo.asp](http://www.cde.ca.gov/ls/he/hn/fluinfo.asp). CSBA also provides a link to a variety of related resources on its H1N1 Influenza web page at [www.csba.org/EducationIssues/EducationIssues/SwineFlu.aspx](http://www.csba.org/EducationIssues/EducationIssues/SwineFlu.aspx).

## Upcoming issues

CSBA continually monitors proposed state and federal legislation and regulations to determine implications for K-12 education. Among the issues that are likely to impact CSBA sample policies are the following:

### Race to the Top and education reform

At press time, the California Senate had passed SBX5 1, a comprehensive measure that purports to address the criteria that President Barack Obama and U.S. Department of Education Secretary Arne Duncan said are needed to make California more competitive for federal Race to the Top stimulus funding provided through the American Recovery and Reinvestment Act. If SBX5 1 does become law, it would be likely to affect a number of CSBA sample policies.

As currently written, major changes proposed in SBX5 1 include:

- making explicit that student achievement data may be used for evaluating and making employment decisions regarding teachers and administrators;
- allowing students in low-performing schools to apply for enrollment in other districts;
- requiring implementation of a “renewal plan” in the lowest achieving five percent of low-performing schools, which would include either converting to a charter school, being placed under private management or restaffing;
- lifting the statewide cap on charter schools; and
- establishing a task force to develop standardized procedures for fiscal reporting and annual audits of charter schools.

The governor had previously signed SB 19, which lifts a statewide ban against using student data from the California Longitudinal Teacher Integrated Data Education System, either solely or in conjunction with data from the California Longitudinal Pupil Achievement Data System, for teacher employment decisions (e.g., pay, evaluation, promotion, sanction).

CSBA issued a news release on Nov. 3 expressing “serious concerns” about SBX5 1. Specifically, CSBA questioned the effectiveness of the interventions proposed for low-performing schools, the elimination of the cap on charter schools in the absence of tough conflict of interest laws, and unnecessary open enrollment provisions.

For further information on Race to the Top, visit [www.cde.ca.gov/ar/er](http://www.cde.ca.gov/ar/er).





## Comprehensive sexual health education

With support from a two-year, \$300,000 grant from the Ford Foundation, CSBA is undertaking an extensive project to build awareness of school boards of the importance of comprehensive sexual health education and its link to improving student learning and achievement. CSBA will be working with other experts and organizations in the field of comprehensive sexual health education, such as the California Healthy Kids Resource Center and the California School Health Centers Association, to accomplish the project goals. CSBA's School Health Advisory Committee also will provide direction and input into the project.

The work is expected to include:

- an online survey of board members, focus groups and additional research to identify barriers, opportunities and existing district practices around sexual health education;
- review and revision of sample board policies and administrative regulations, as appropriate;
- incorporation of relevant issues, such as harassment, discrimination and violence based on students' identity as gay, lesbian, bisexual or transgender, into CSBA's school safety guidebook;
- additional communication pieces, which may include policy briefs, fact sheets, articles, advisories or research briefs;
- case studies of best practices in California school districts; and
- continuing education opportunities such as workshops, trainings and Webinars.

## Expansion of FMLA military family leave

The federal Family and Medical Leave Act (29 USC 2611-2612) authorizes an employee to take up to 26 work weeks of unpaid leave to care for a covered servicemember with a serious illness or injury, provided that the employee is the spouse, child, parent or next of kin of the servicemember. It also provides up to 12 work weeks of unpaid leave to attend to a qualifying "exigency" arising out of the servicemember's active duty, such as time needed to address issues arising from short-notice deployment, attend military events or arrange child care.

This law has been amended by the Supporting Military Families Act of 2009, signed by President Barack Obama on October 28 as part of the National Defense Authorization Act for FY 2010 (H.R. 2647, Sec. 565). As amended, the law provides that, effective immediately:

- Employees may use military caregiver leave not only to care for a current servicemember who was seriously ill or injured on active duty but one who has separated from military service within the past five years.
- Employees are also allowed to use military caregiver leave when the covered servicemember suffered from a pre-existing serious injury or illness that was aggravated by active duty status in the military.
- Exigency leave is available when the servicemember is called to active duty in a foreign country, replacing the requirement that the active duty be "in support of a contingency operation."
- Exigency leave is available when the family member is in the regular Armed Forces as well as the National Guard or military reserves.

CSBA will be reviewing and revising AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave as necessary. In the meantime, districts should review the law and consult legal counsel as necessary if the district receives a request for military caregiver leave or military exigency leave that goes beyond current district policy or regulations.