

## **CSBA POLICY GUIDE SHEET**

### **July 2021**

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

#### **DELETE - Board Policy 6157 - Distance Learning**

Policy deleted due to expiration of emergency legislation that temporarily waived apportionment requirements to permit distance learning for the 2020-2021 school year.

#### **Board Policy 6158 - Independent Study**

Policy updated to reflect **NEW LAW (AB 130, 2021)** which requires all districts, for the 2021-22 school year, to offer independent study to meet the educational needs of students unless a waiver is obtained and to adopt policy with specified components in order to generate apportionment for independent study. Policy updates the minimum period of time permitted for independent study to be three consecutive school days, requires an evaluation to determine if the student should continue in independent study if the student fails to make satisfactory educational progress, and requires that content be aligned to grade level standards including the requirement for high schools to offer access to all courses offered by the district for graduation and approved as creditable for A-G admission criteria. Policy also updated to include the requirement for live interaction and/or synchronous instruction based on grade level, tiered reengagement strategies for students not generating attendance for a specified period of time, expeditious transition for students whose families wish to return to in-person instruction, notice to parents/guardians of specified information, the provision of a student-parent-educator conference, upon request, prior to enrollment and/or disenrollment, and the keeping of additional records including documentation of each student's participation in live interaction and synchronous instruction on each school day, as applicable. Policy updated to include material formerly in the AR regarding requirements for independent study and written agreements as well as new requirements regarding the same, including that written agreements must include a detailed statement of academic and other supports that will be provided to address the needs of particular students, that the agreement may be signed electronically as specified, and that, for the 2021-22 school year, the written agreement must be signed no later than 30 days after the first day of instruction. Policy updated to include material formerly in the AR regarding course-based independent study and to generally align the requirements of course-based independent study with the requirements for general independent study.

#### **Administrative Regulation 6158 - Independent Study**

Regulation updated to reflect **NEW LAW (AB 130, 2021)** which includes, adding definitions for "live interaction," "student-parent-educator conference" and "synchronous instruction," the requirement for all districts for the 2021-22 school year to offer independent study to meet the educational needs of students unless the district has obtained a waiver, that independent study may be offered to students whose health would be put at risk by in-person instruction as determined by the parent/guardian, the assurance of access to Internet connectivity and devices adequate to participate in the educational program and complete assigned work, and the documentation of each student's participation in live interaction and synchronous instruction pursuant to Education Code 51747 on each school day, as applicable. Material regarding requirements for independent study, written agreements and course-based independent study moved to BP.

**INDEPENDENT STUDY**

The Governing Board authorizes independent study as an optional alternative instructional strategy for 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, and an online course.

*(cf. 0420.4 - Charter School Authorization)*

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

A student's participation in independent study shall be voluntary. (Education Code 51747, 51749.5)

Independent study for each student shall be under the general supervision of a district employee who possesses a valid certification document pursuant to Education Code 44865 or an emergency credential pursuant to Education Code 44300. Students' independent study shall be coordinated, evaluated, and documented, as prescribed by law and reflected in the accompanying administrative regulation. (Education Code 51747.5)

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

**General Independent Study Requirements**

For the 2021-22 school year, the district shall offer independent study, as specified in Education Code 51745, to meet the educational needs of students unless the district has obtained a waiver. (Education Code 51745)

For the 2022-23 school year and thereafter, the Superintendent or designee may continue to offer and approve independent study for an individual student 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 the student would in the regular classroom setting.

*(cf. 5147 - Dropout Prevention)*

*(cf. 6011 - Academic Standards)*

*(cf. 6143 - Courses of Study)*

## **INDEPENDENT STUDY** (continued)

*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6146.11 - Alternative Credits Toward Graduation)*  
*(cf. 6172 - Gifted and Talented Student Program)*  
*(cf. 6200 - Adult Education)*

Because excessive leniency in the duration of independent study assignments may result in a student falling behind peers and increase the risk of dropping out of school, independent study assignments shall be completed no more than one week after assigned 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 fails to make satisfactory educational progress and/or misses three assignments. Satisfactory educational progress shall be determined based on all of the following indicators: (Education Code 51747)

1. The student's achievement and engagement in the independent study program, as indicated by the student's performance on applicable student-level measures of student achievement and engagement specified in Education Code 52060
2. The completion of assignments, assessments, or other indicators that evidence that the student is working on assignments
3. Learning required concepts, as determined by the supervising teacher
4. Progress towards successful completion of the course of study or individual course, as determined by the supervising teacher

The Superintendent or designee shall ensure that students participating in independent study are provided with content aligned to grade level standards at a level of quality and intellectual challenge substantially equivalent to in-person instruction. For high schools, this shall include access to all courses offered by the district for graduation and approved by the University of California or the California State University as creditable under the A-G admissions criteria. (Education Code 51747)

The Superintendent or designee shall ensure that students participating in independent study for 15 school days or more receive the following throughout the school year: (Education Code 51747)

1. For students in grades transitional kindergarten, kindergarten, and grades 1 to 3, opportunities for daily synchronous instruction

**INDEPENDENT STUDY** (continued)

2. For students in grades 4-8, opportunities for both daily live interaction and at least weekly synchronous instruction
3. For students in grades 9-12, opportunities for at least weekly synchronous instruction

The Superintendent or designee shall ensure that procedures for tiered reengagement strategies are used for all students who are not generating attendance for more than three school days or 60 percent of the instructional days in a school week, or who are in violation of their written agreement. This requirement only applies to students participating in an independent study program for 15 school days or more. The procedures shall include, but are not necessarily limited to, all of the following: (Education Code 51747)

1. Verification of current contact information for each enrolled student
2. Notification to parents/guardians of lack of participation within one school day of the absence or lack of participation
3. A plan for outreach from the school to determine student needs, including connection with health and social services as necessary
4. A clear standard for requiring a student-parent-educator conference to review a student's written agreement and reconsider the independent study program's impact on the student's achievement and well-being

The Superintendent or designee shall develop a plan to transition students whose families wish to return to in-person instruction from independent study expeditiously, and, in no case later, than five instructional days. This requirement only applies to students participating in an independent study program for 15 school days or more. (Education Code 51747)

The Superintendent or designee shall ensure that a written master agreement exists for each participating student as prescribed by law. (Education Code 51747, 51749.5)

The district shall provide written notice to the parents/guardians of all enrolled students of the option to enroll their child in in-person instruction or independent study during the 2021-22 school year. This notice shall be posted on the district's web site, and shall include, at a minimum, information about the right to request a student-parent-educator conference before enrollment, student rights regarding procedures for enrolling, disenrolling, and reenrolling in independent study, and the instructional time, including synchronous and asynchronous learning, that a student will have access to as part of independent study. (Education Code 51747)

## **INDEPENDENT STUDY (continued)**

Upon the request of the parent/guardian of a student, before making a decision about enrolling or disenrolling in independent study and entering into a written agreement to do so, the district shall conduct a telephone, videoconference, or in-person student-parent-educator conference or other meeting during which the student, parent/guardian, or their advocate may ask questions about the educational options, including which curriculum offerings and nonacademic supports will be available to the student in independent study. (Education Code 51747)

### **Master Agreement**

For the 2021-22 school year only, the district shall obtain a signed written agreement for independent study no later than 30 days after the first day of instruction.

A written agreement shall be developed and implemented for each student participating in independent study for three 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 are not limited to, all of the following: (Education Code 51747; 5 CCR 11700, 11702)

1. The frequency, time, place and manner for submitting the student's assignments, reporting the student's academic progress, and communicating with a student's parent/guardian regarding the student's academic 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 that will be made available to the student, including materials and personnel, and access to Internet connectivity and devices adequate to participate in the educational program and complete assigned work
4. A statement of the Board's policy detailing the maximum length of time allowed between an assignment and its completion, the level of satisfactory educational progress, and the number of missed assignments which will trigger an evaluation of whether the student should be allowed to continue in independent study
5. The duration of the independent study agreement, including the beginning and ending dates for the student's participation in independent study under the agreement, with a maximum of one school year

**INDEPENDENT STUDY** (continued)

6. A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the student upon completion
7. A statement detailing the academic and other supports that will be provided to address the needs of students who are not performing at grade level, or need support in other areas, such as English learners, students with disabilities with an individualized education program or a Section 504 plan in order to be consistent with their program or plan, students in foster care or experiencing homelessness, and students requiring mental health supports.
8. A statement that independent study is an optional educational alternative in which no student may be required to participate
9. In the case of a suspended or expelled student who is referred or assigned to any school, class, or program pursuant to Education Code 48915 or 48917, a statement that instruction may be provided through independent study only if the student is offered the alternative of classroom instruction

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

10. Before the commencement of independent study, the agreement shall be signed and dated by the student, the student's parent/guardian or caregiver 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.

However, for the 2021-22 school year, the district shall obtain a signed written agreement for independent study from the student, or the student's parent/ guardian if the student is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil, no later than 30 days after the first day of instruction.

Written agreements may be signed using an electronic signature that complies with state and federal standards, as determined by the California Department of Education (CDE). (Education Code 51747)

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

## **INDEPENDENT STUDY** (continued)

### **Course-Based Independent Study**

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

1. A signed learning agreement shall be completed and on file for each participating student pursuant to Education Code 51749.6
2. 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.

*(cf. 4112.2 - Certification)*

3. Courses shall be annually certified by Board resolution to be of the same rigor and educational quality and to provide intellectual challenge that is substantially equivalent to in-person, classroom-based instruction, and shall be aligned to all relevant local and state content standards. For high schools, this shall include access to all courses offered by the district for graduation and approved by the University of California or the California State University as creditable under the A-G admissions criteria. The 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. The certification shall also include plans to provide opportunities for students in grades transitional kindergarten, kindergarten, and grades 1-3 to receive daily synchronous instruction, for students in grades 4-8, to receive both daily live interaction and at least weekly synchronous instruction, and for students in grades 9-12 to receive at least weekly synchronous instruction.
4. Students enrolled in independent study courses shall meet the applicable age requirements established pursuant to Education Code 46300.1, 46300.4, 47612, and 47612.1, and the applicable residency and enrollment requirements established pursuant to Education Code 46300.2, 47612, 48204, and 51747.3.
5. For each student participating in an independent study course, satisfactory educational progress shall be determined based on the student's achievement and engagement in the independent study program, as indicated by their performance on applicable student-level measures of student achievement and student engagement set forth in Education Code 52060, completion of assignments, assessments, or other

**INDEPENDENT STUDY** (continued)

indicators that evidence that the student is working on assignments, learning of required concepts, as determined by the supervising teacher, and progress toward successful completion of the course of study or individual course, as determined by the supervising teacher.

If satisfactory educational progress in an independent study class is not being made, the teacher shall notify the student and, if the student is under age 18 years, the student's 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 the student 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.

Procedures for tiered reengagement strategies shall be used for all students who are not making satisfactory educational progress in one or more courses or who are in violation of the written learning agreement, as described in the section "Learning Agreement for Course-Based Independent Study" below. These procedures shall include, but are not necessarily limited to, the verification of current contact information for each enrolled student, notification to parents/guardians of lack of participation within one school day of the absence or lack of participation, a plan for outreach from the school to determine student needs, including connection with health and social services as necessary, and a clear standard for requiring a student-parent-educator conference to review a student's written agreement and reconsider the independent study program's impact on the student's achievement and well-being.

*(cf. 5125 - Student Records)*

6. Examinations shall be administered by a proctor.
7. 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. Test results also shall be disaggregated for purposes of comparisons with the test results of students enrolled in classroom-based courses.

*(cf. 6162.51 - State Academic Achievement Tests)*

8. A student shall not be required to enroll in courses included in the course-based independent study program.
9. The student-teacher ratio in the courses in this program shall meet the requirements of Education Code 51745.6.



**INDEPENDENT STUDY** (continued)

10. 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.

*(cf. 6111 - School Calendar)*

*(cf. 6112 - School Day)*

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

*(cf. 3260 - Fees and Charges)*

13. A student shall not be prohibited from participating in independent study solely on the basis that the student does not have the materials, equipment, or access to Internet connectivity necessary to participate in the course.
14. A student with disabilities, as defined in Education Code 56026, shall not participate in course-based independent study, unless the student's individualized education program specifically provides for that participation.
15. A temporarily disabled student shall not receive individual instruction pursuant to Education Code 48206.3 through course-based independent study.
16. The district shall maintain a plan to transition any student whose family wishes to return to in-person instruction from course-based independent study expeditiously, and, in no case, later than five instructional days.

**Learning Agreement for Course-Based Independent Study**

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, the student's 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 course-based independent study pursuant to Education Code 51749.5

**INDEPENDENT STUDY** (continued)

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 that will be made available to the student, including materials and personnel, and access to Internet connectivity and devices adequate to participate in the educational program and complete assigned work
6. A statement detailing the academic and other supports that will be provided to address the needs of students who are not performing at grade level, or need support in other areas, such as English learners, students with disabilities with an individualized education program or a Section 504 plan in order to be consistent with their program or plan, students in foster care or experiencing homelessness, and students requiring mental health supports.
7. A statement that enrollment is an optional educational alternative in which no student may be required to participate. In the case of a student who is suspended or expelled, or who is referred or assigned to any school, class, or program pursuant to Education Code 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the student through course-based independent study only if the student is offered the alternative of classroom instruction.
8. The manner, time, frequency, and place for submitting a student's assignments, for reporting the student's academic progress, and for communicating with a student's parent/guardian regarding a student's academic progress.
9. The objectives and methods of study for the student's work, and the methods used to evaluate that work.
10. A statement of the adopted policies regarding the maximum length of time allowed between the assignment and the completion of a student's assigned work, the level of satisfactory educational progress, and the number of missed assignments allowed before an evaluation of whether the student should be allowed to continue in course-based independent study.

## **INDEPENDENT STUDY** (continued)

11. A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the learning agreement, to be earned by the student upon completion.
12. Before the commencement of an independent study course, the learning agreement shall be signed and dated by the student, the student's parent/guardian or caregiver, if the student is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of the independent study course, and all persons who have direct responsibility for providing assistance to the student. For purposes of this paragraph "caregiver" means a person who has met the requirements of Family Code 6550-6552.

However, for the 2021-22 school year only, the district shall obtain a signed written agreement for independent study from the student, or the student's parent/guardian if the student is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of the independent study course, and all persons who have direct responsibility for providing assistance to the pupil no later than 30 days after the first day of instruction.

Written agreements may be signed using an electronic signature that complies with state and federal standards, as determined by the CDE. (Education Code 51749.6)

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)

### **Student-Parent-Educator Conferences**

A student-parent-educator conference shall be held as appropriate including, but not limited to, as a reengagement strategy and/or if requested by a parent/guardian prior to enrollment or disenrollment from independent study. (Education Code 51745.5, 51747, 51749.5)

### **Records for Audit Purposes**

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

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

**INDEPENDENT STUDY** (continued)

2. A listing of the students, by grade level, program, and school, who have participated in independent study, along with the units of the curriculum attempted and completed by students in grades K-8 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 the teacher has personally evaluated the work or 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
5. Appropriate documentation of compliance with the teacher-student ratios required by Education Code 51745.6 and 51749.5 (Education Code 51745.6 and 51749.5)
6. Appropriate documentation of compliance with the requirements pursuant to Education Code 51747.5 to ensure the coordination, evaluation, and supervision of the independent study of each student by a district employee who possesses a valid certification document pursuant to Education Code 44865 or an emergency credential pursuant to Education Code 44300 (Education Code 51747.5)

The district shall document each student's participation in live interaction and synchronous instruction pursuant to Education Code 51747 on each school day, as applicable, in whole or in part, for which independent study is provided. A student who does not participate in independent study on a school day shall be documented as nonparticipatory for that school day. (Education Code 51747.5)

The Superintendent or designee also shall maintain a written or computer-based record such as a grade book or summary document of student engagement, for each class, of all grades, assignments, and assessments for each student for independent study assignments. (Education Code 51747.5)

*(cf. 3580 - District Records)*

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

**INDEPENDENT STUDY** (continued)

**Program Evaluation**

The Superintendent or designee shall annually report to the Board 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 Board and Superintendent shall determine areas for program improvement as needed.

*(cf. 0500 - Accountability)*

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

*(cf. 6162.5 - Student Assessment)*

*Legal Reference: (see next page)*

**INDEPENDENT STUDY (continued)**

*Legal Reference:*

EDUCATION CODE

17289 *Exemption for facilities*  
41020 *Audit guidelines*  
41976.2 *Independent study programs; adult education funding*  
42238 *Revenue limits*  
42238.05 *Local control funding formula; average daily attendance*  
44865 *Qualifications for home teachers and teachers in special classes and schools*  
46200-46208 *Instructional day and year*  
46300-46307.1 *Methods of computing average daily attendance*  
46390-46393 *Emergency average daily attendance*  
46600 *Interdistrict attendance computation*  
47612-47612.1 *Charter school operation*  
47612.5 *Independent study in charter schools*  
48204 *Residency*  
48206.3 *Home or hospital instruction; students with temporary disabilities*  
48220 *Classes of children exempted*  
48340 *Improvement of pupil attendance*  
48915 *Expulsion; particular circumstances*  
48916.1 *Educational program requirements for expelled students*  
48917 *Suspension of expulsion order*  
49011 *Student fees*  
51225.3 *Requirements for high school graduation*  
51745-51749.6 *Independent study programs*  
52060 *Local control and accountability plan*  
52522 *Adult education alternative instructional delivery*  
52523 *Adult education as supplement to high school curriculum; criteria*  
56026 *Individuals with exceptional needs*  
58500-58512 *Alternative schools and programs of choice*

FAMILY CODE

6550-6552 *Authorization affidavits*

CODE OF REGULATIONS, TITLE 5

11700-11703 *Independent study*

UNITED STATES CODE, TITLE 20

6301 *Highly qualified teachers*

6311 *State plans*

COURT DECISIONS

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

*Management Resources: (see next page)*

**INDEPENDENT STUDY** (continued)

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Elements of Exemplary Independent Study*

*California Digital Learning Integration and Standards Guidance, April 2021*

EDUCATION AUDIT APPEALS PANEL PUBLICATIONS

*Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting*

WEB SITES

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

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

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

**INDEPENDENT STUDY**

**Definitions**

*Live interaction* means interaction between the student and classified or certificated staff, and may include peers, provided for the purpose of maintaining school connectedness, including, but not limited to, wellness checks, progress monitoring, provision of services, and instruction. This interaction may take place in person, or in the form of Internet or telephonic communication. (Education Code 51745.5)

*Student-parent-educator conference* means a meeting involving, at a minimum, all parties who signed the student's written independent study agreement pursuant to Education Code 51747 or the written learning agreement pursuant to Education Code 51749.6. (Education Code 51745.5)

*Synchronous instruction* means classroom-style instruction or designated small group or one-on-one instruction delivered in person, or in the form of Internet or telephonic communications, and involving live two-way communication between the teacher and student. Synchronous instruction shall be provided by the teacher of record for that student pursuant to Education Code 51747.5. (Education Code 51745.5)

**Educational Opportunities**

For the 2021-22 school year, the district shall offer independent study to meet the educational needs of students as specified in Education Code 51745 unless the district has obtained a waiver. (Education Code 51745)

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

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

*(cf. 6143 - Courses of Study)*

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

*(cf. 5112.3 - Student Leave of Absence)*

5. Volunteer community service activities and leadership opportunities that support and strengthen student achievement



**INDEPENDENT STUDY** (continued)

6. Individualized study for a student whose health, as determined by the student's parent/guardian, would be put at risk by in-person instruction

*(cf. 0420.4 - Charter School Authorization)*  
*(cf. 6142.4 - Service Learning/Community Service Classes)*  
*(cf. 6181 - Alternative Schools/Programs of Choice)*

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

*(cf. 5113 - Absences and Excuses)*

No course required for high school graduation shall be offered exclusively through independent study. (Education Code 51745)

*(cf. 6146.1 - High School Graduation Requirements)*

**Equivalency**

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

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

Students participating in independent study shall have access to Internet connectivity and devices adequate to participate in the educational program and complete assigned work. (Education Code 51747)

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. Providing access to Internet connectivity and local educational agency-owned devices adequate to participate in an independent study program and complete assigned work consistent with Education Code 51747, or to participate in an independent study course, as authorized by Education Code 51749.5, shall not be considered funds or other things of value. (Education Code 46300.6, 51747.3)

**Eligibility for Independent Study**

Students are eligible for independent study as authorized in law, and as specified in board policy and administrative regulation.

**INDEPENDENT STUDY** (continued)

For the 2022-23 school year and thereafter, 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 provided that experienced certificated staff are available to effectively supervise students in independent study. The Superintendent or designee may also approve the participation of a student whose health would be put at risk by in-person instruction. 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)

*(cf. 5111.1 - District Residency)*

A student with disabilities, as defined in Education Code 56026, shall not participate in independent study unless the student's individualized education program specifically provides for such participation. (Education Code 51745)

*(cf. 6159 - Individualized Education Program)*

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

*(cf. 6183 - Home and Hospital Instruction)*

Students age 21 or older, and students age 19 or older who have not been continuously enrolled in school since their 18th birthday, may participate in independent study only through the adult education program for the purpose of enrolling in courses required for a high school diploma by Education Code 51225.3 or the Governing Board. (Education Code 46300.1, 46300.4)

*(cf. 6200 - Adult Education)*

No more than 10 percent of the students enrolled in a continuation high school or opportunity school or program, not including pregnant students and parenting students who are primary caregivers for one or more of their children, shall be enrolled in independent study. (Education Code 51745)

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 6184 - Continuation Education)*

## **INDEPENDENT STUDY (continued)**

### **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 the student's 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 failed to make satisfactory educational progress or 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)

### **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 at the required teacher-student ratios pursuant to Education Code 51745.6 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

**INDEPENDENT STUDY** (continued)

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 district employee who possesses a valid certification document pursuant to Education Code 44865 or emergency credential pursuant to Education Code 44300, registered as required by law, and 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 and signing the 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 for Audit Purpose" in the accompanying Board policy
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

**INDEPENDENT STUDY** (continued)

9. Documenting each student's participation in live interaction and/or synchronous instruction pursuant to Education Code 51747 on each school day for which independent study is provided

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

*(cf. 4131 - Staff Development)*

## CSBA POLICY GUIDE SHEET

### September 2021

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

#### **Board Policy 0470 - COVID-19 Mitigation Plan**

Policy updated to add new note to reflect that districts are obligated to comply with COVID-19 mitigation requirements from multiple jurisdictional authorities including the California Department of Public Health (CDPH), the California Division of Occupational Safety and Health (Cal/OSHA), and local health authorities, to reflect guidance from CDPH and Cal/OSHA's COVID-19 prevention program, and reflect requirements for districts to create and post COVID-19 safety plans. Policy updated to direct the Superintendent and/or designee to establish and maintain a COVID-19 safety plan that complies with public health guidance of CDPH, the requirements of Cal/OSHA, any orders of state or local health authorities, and any other applicable law and/or health order(s) and to omit specific details regarding COVID-19 mitigation practices due to the evolving nature of public health guidance. Policy updated to reflect **NEW LAW (AB 86, 2021)** and **NEW LAW (AB 130, 2021)** requiring the reporting of specified COVID-19 cases to CDPH and requiring the reporting of other information to the California Collaborative for Educational Excellence (CCEE). Policy updated to reflect **NEW LAW (AB 86, 2021)** and **NEW LAW (AB 130, 2021)** requiring districts that receive Extended Learning Opportunities (ELO) grant funding to implement a learning recovery program that provides supplemental instruction, support for social-emotional well-being, and to the maximum extent permissible as specified in U.S. Department of Agriculture guidelines, meals and snacks, to eligible students. Policy also updated to include promising practices for reengaging chronically absent students and to direct the Superintendent or designee to ensure the continuity of instruction for students who may be under a quarantine order to stay home by offering such students independent study or other instructional delivery channels that allows the student to continue to participate in the instructional program to the greatest extent possible.

#### **Board Policy 3516.5 - Emergency Schedules**

Policy updated to reflect **NEW LAW (AB 130, 2021)** requiring districts applying to the Superintendent of Public Instruction to obtain apportionment credit for days and minutes lost due to emergency closure after September 1, 2021 to certify in an affidavit that the district has a plan for offering independent study within 10 days of school closure to impacted students. Policy also updated to reflect requirement that the plan for independent study address the establishment, within a reasonable time, of independent study master agreements and require the reopening in person once allowable under direction from the city or county health officer.

#### **Board Policy 4131 - Staff Development**

Policy updated to incorporate concepts of student well-being and social-emotional development and learning as it relates to professional development, to clarify that the development of the staff development program includes creating, reviewing and amending the program, to reflect the State Board of Education's [California Digital Learning Integration and Standards Guidance](#) regarding staff development in the use of technologies, to reference **NEW LAW (AB 130, 2021)** regarding requirements for districts offering technology-based instruction pursuant to an independent study program, and to expand the list of characteristics that are included in diverse student populations as related to staff development in meeting the needs of such students. Policy also updated to enhance staff development regarding school climate to include acceptance, civility, and positive behavioral interventions and supports, and staff development regarding student's mental and physical health to include social-emotional learning and trauma-informed practices.

### **Board Policy 6120 - Response to Instruction and Intervention**

Policy updated to emphasize the importance of learning and behavioral outcomes and progress monitoring as it relates to response to instruction and intervention (RtI<sup>2</sup>), reference multi-tiered system of supports (MTSS) and the integration of RtI<sup>2</sup> into such frameworks, expand the list of individuals that may be included in designing the district's RtI<sup>2</sup> system, add the examination of student social-emotional well-being as one of the bases for design, provide more detail regarding strategies and interventions including ten core components of the RtI<sup>2</sup> model identified by the California Department of Education, and that RtI<sup>2</sup> may be utilized as one component when considering the referral of a student for evaluation for special education or other services.

### **Board Policy 6164.4 - Identification and Evaluation of Individuals for Special Education**

Policy updated to reference the U.S. Department of Education's (USDOE) Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act which reaffirms the obligation to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including the requirement to meet child find obligations, and encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic.

### **Administrative Regulation 6164.4 - Identification and Evaluation of Individuals for Special Education**

Regulation updated to reference USDOE's Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act which recommends that districts undertake new child find activities in light of the educational disruptions caused by the COVID-19 pandemic and emphasizes that students who are experiencing long-term COVID effects be referred for special education evaluation if their symptoms are adversely impacting their ability to participate and learn in the general curriculum. Regulation also updated to provide that the child find process includes the collection and screening of data to determine if students are making adequate progress, to include the district's obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies, clarify material regarding referrals for initial evaluations, evaluation plans and informed parent/guardian consent, reflect the timeline for the determination of whether the student is eligible for special education and the educational needs of the student and when an Individualized Education Program (IEP) meeting and the development of an IEP occurs, clarify the qualifications of personnel who administer evaluations and reevaluations, add that the normal process of second-language acquisition as well as manifestations of dialect and social linguistic variance not be diagnosed as a disabling condition, and clarify material regarding Independent Educational Evaluations. Regulation also updated to reference M.M. v. Lafayette School District, a Ninth Circuit Court of Appeals decision which held that the district violated IDEA when it failed to provide parents with their child's response to instruction (RTI) data when seeking informed consent for an initial evaluation.

### **Board Policy 6164.41 - Children with Disabilities Enrolled by their Parents in Private School**

Policy updated to reorganize and clarify material.

### **Administrative Regulation 6164.41 - Children with Disabilities Enrolled by their Parents in Private School**

Regulation updated to reference USDOE's Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act which recommends best practices for keeping parents/guardians, teachers, and private school officials informed of the child find process, enhance the section regarding consultation with private school representatives, and reference USDOE's Questions and Answers on Serving Children with Disabilities Placed by their Parents in Private School which emphasizes that districts may not require a private school to implement a RTI process before evaluating parentally-placed private school children. Regulation also updated to add that evaluation of all identified parentally-placed private school children with disabilities be conducted as specified in BP/AR - Identification and Evaluation of Individuals for Special Education including obtaining parent/guardian consent, that the district is required to make a free appropriate public education available to a child residing in the district who is eligible for an IEP, and to clarify material regarding the qualification requirements of private elementary and secondary school teachers providing equitable services to parentally-placed private school children.

### **Board Policy 6164.5 - Student Success Teams**

Policy updated to reference that the student success team (SST) process is not required by law and that the policy reflects best practices, clarify those who are encouraged to collaborate in SSTs, include social and emotional difficulties when evaluating the strengths and needs of students and establishing interventions, emphasize the importance of each student maximizing their potential, specify who may refer students to SSTs, add types of materials appropriate for collection, analysis and review by the SST, provide for the development of a plan to support the student and adjustments to such plan, reflect that the SST process shall not delay or deny a referral for evaluation for eligibility for special education, reference MTSS and the integration of SSTs with such supports, and add staff development which may be provided to strengthen the effectiveness of SSTs.

**Administrative Regulation 6164.5 - Student Success Teams**

Regulation updated to reference that the SST process is not required by law and that the regulation reflects best practices, emphasize the importance of school counselors in the SST membership, provide that the makeup of each individual SST is at the district's discretion, reference the ability of districts to appoint a districtwide or schoolwide SST coordinator, identify teachers specifically as school staff with whom consultation may occur, add types of materials appropriate for collection to inform SST members, and add the development of a plan, and adjustments to the plan and related interventions, as one of the SST responsibilities.



**COVID-19 MITIGATION PLAN**

The following policy establishes actions that will be taken by the district to provide a safe learning and working environment during the coronavirus (COVID-19) pandemic, and shall supersede any conflicting language in existing district policies or administrative regulations until the Governing Board determines that the need for this policy no longer exists. The Board acknowledges that, due to the evolving nature of the pandemic, federal, state, and local orders impacting district operations are subject to change without notice. In the event that any federal or state law and/or order or local order may conflict with this policy, the law or order shall govern.

The Board may also adopt resolutions or take other actions as needed to respond to such orders or provide further direction during the pandemic.

*(cf. 2210 - Administrative Discretion Regarding Board Policy)*

*(cf. 5141.22 - Infectious Diseases)*

*(cf. 9310 - Board Policies)*

To limit the impact of the pandemic on the education of district students, the district shall implement learning recovery, social-emotional support, and other measures and strategies designed to keep students learning and engaged in the instructional program.

**COVID-19 Safety Plan**

The Superintendent or designee shall establish, implement, and maintain a COVID-19 safety plan that complies with any mandatory public health guidance of the California Department of Public Health (CDPH), the COVID-19 prevention program ("CPP") consistent with the regulations of the California Division of Occupational Safety and Health, any orders of state or local health authorities, and any other applicable law and/or health order(s). The Superintendent or designee shall ensure, at a minimum, that the COVID-19 safety plan complies with all mandatory guidance and gives priority to recommended practices that are identified as being particularly effective at COVID-19 mitigation. The Superintendent or designee shall regularly review public health guidance to ensure that the district's COVID-19 mitigation strategies are current with public health mandates or recommendations.

The district's COVID-19 safety plan shall be posted on the district's web site.

To promote transparency and facilitate decision-making regarding COVID-19 mitigation strategies, the Superintendent or designee shall report to the Board on a regular basis regarding the following:

1. Level of community transmission of COVID-19
2. COVID-19 vaccination coverage in the community and among students and staff
3. Any local COVID-19 outbreaks or increasing trends

## **COVID-19 MITIGATION PLAN (continued)**

4. Changes to local, state, and/or federal public health guidance, orders, and laws
5. Any revisions to the district's COVID-19 safety plan

### **Reporting to the Public Health Department**

Upon learning that a school employee or student who has tested positive for COVID-19 was present on campus while infectious, the Superintendent or designee shall immediately, and in no case later than 24 hours after learning of the positive case, notify the local health officer or the local health officer's representative about the positive case. The notification shall be made even if the individual who tested positive has not provided prior consent to the disclosure of personally identifiable information and shall include all of the following information, if known: (Education Code 32090)

1. Identifying information of the individual who tested positive, including full name, address, telephone number, and date of birth
2. The date of the positive test, the school(s) at which the individual was present, and the date the individual was last onsite at the school(s)
3. The name, address, and telephone number of the person making the report

If a school has two or more outbreaks of COVID-19 and is subject to a safety review by CDPH pursuant to Education Code 32090, the Superintendent or designee shall cooperate fully with the review.

### **Statewide Instructional Mode Survey**

On or before the second and fourth Monday of each month, the Superintendent or designee shall submit to the California Collaborative for Educational (CCEE) information required under Education Code 32091, in accordance with the form and procedures determined by CCEE.

### **Stakeholder Engagement and Community Relations**

The district shall solicit input from stakeholders on how to best support students following the learning disruptions of the pandemic through appropriate methods, which may include surveys, community and family meetings, and other methods identified by the Superintendent or designee.

The Superintendent or designee shall collaborate with local health authorities to ensure that parents/guardians are provided with the information needed to ensure that public health

## **COVID-19 MITIGATION PLAN (continued)**

guidance is observed in the home as well as in school, such as information about isolation and quarantine requirements, face mask requirements, symptom checks prior to school attendance, and who to contact when students have symptoms and/or were exposed.

The Superintendent or designee shall use a variety of methods to regularly communicate with students, parents/guardians, and the community regarding community transmission levels, district operations, school schedules, and steps the district is taking to promote the health and safety of students. In addition, the members of the Board have a responsibility as community leaders to communicate matters of public interest in a manner that is consistent with Board policies and bylaws regarding public statements.

*(cf. 1100 - Communication with the Public)*

*(cf. 1112 - Media Relations)*

*(cf. 9010 - Public Statements)*

The district shall continue to collaborate with local health officials and agencies, community organizations, and other stakeholders to ensure that district operations reflect current recommendations and best practices for COVID-19 mitigation strategies. The Superintendent or designee shall keep informed about resources and services available in the community to assist students and families in need.

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

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

## **Learning Recovery and Social-Emotional Support**

The Superintendent or designee shall develop a plan for assessing students' current academic levels early in the school year to ensure that each student is provided with appropriate opportunities for learning recovery based on need. The plan may include:

1. Use of interim or diagnostic assessments
2. Review of available data from assessments within the California Assessment of Student Performance and Progress
3. Review of attendance data from the 2020-2021 school year
4. Review of prior year grades
5. Discussion of student needs and strengths with parents/guardians and former teachers

*(cf. 3553 - Free and Reduced Price Meals)*

*(cf. 5141.5 - Mental Health)*

*(cf. 5141.52 - Suicide Prevention)*

## **COVID-19 MITIGATION PLAN (continued)**

*(cf. 5147 - Dropout Prevention)*  
*(cf. 6120 - Response to Instruction and Intervention)*  
*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*  
*(cf. 6146.11 - Alternative Credits Toward Graduation)*  
*(cf. 6159 - Individualized Education Program)*  
*(cf. 6164.5 - Student Success Teams)*  
*(cf. 6173 - Education for Homeless Children)*  
*(cf. 6173.1 - Education for Foster Youth)*  
*(cf. 6174 - Education for English Learners)*  
*(cf. 6184 - Continuation Education)*

The Superintendent or designee shall develop and implement a learning recovery program that, at a minimum, provides supplemental instruction and support for social emotional well-being, and to the maximum extent permissible meals and snacks, to eligible students. (Education Code 43522)

### **Supplemental Instruction and Support**

The district shall provide students with evidence-based supports and interventions in a tiered framework that bases universal, targeted, and intensive supports on students' needs for academic, social-emotional, and other integrated student supports through a program of engaging learning experiences in a positive school climate. (Education Code 43522)

Targeted and intensive supports may include: (Education Code 43522)

1. Extending instructional learning time based on student learning needs including through summer school or intersessional instructional programs
2. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff
3. Learning recovery programs and materials designed to accelerate student academic proficiency, English language proficiency, or both
4. Integrated student supports to address other barriers to learning, such as:
  - a. The provision of health, counseling, or mental health services
  - b. Access to school meal programs
  - c. Access to before and after school programs
  - d. Programs to address student trauma and social-emotional learning

**COVID-19 MITIGATION PLAN** (continued)

- e. Referrals for support for family or student needs
- 5. Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports
- 6. Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility
- 7. Additional academic services for students, such as diagnostic, progress monitoring, and benchmark assessments of student learning
- 8. Other interventions identified by the Superintendent or designee

*(cf. 6164.2 - Guidance/Counseling Services)*

To ensure schoolwide implementation of the district's tiered framework of supports, the Superintendent or designee shall plan staff development that includes: (Education Code 43522)

- 1. Accelerated learning strategies and effective techniques for closing learning gaps, including training in facilitating quality learning opportunities for all students
- 2. Strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health needs and academic needs

**Reengagement for Chronically Absent Students**

The Superintendent or designee shall implement strategies for identifying, locating, and reengaging students who were chronically absent or disengaged during the 2020-21 school year, including students who were kindergarten-age but who did not enroll in kindergarten. Strategies for reengaging students may include:

- 1. Personal outreach to families, including by staff who are known to families
- 2. Door-to-door campaigns
- 3. The use of social media to spread awareness about the implementation of COVID-19 mitigation strategies
- 4. Welcoming and supporting students who experienced chronic absenteeism due to the COVID-19 pandemic or who are returning to school after a long absence

## **COVID-19 MITIGATION PLAN (continued)**

### **Student Absence and Attendance**

The Board recognizes that COVID-19 will continue to impact the attendance of students. The Superintendent or designee shall notify students and parents/guardians of expectations regarding school attendance. Such notification shall direct any student who contracts the virus or is subject to a quarantine order to stay home in accordance with state and local health orders.

*(cf. 5113.1 - Chronic Absence and Truancy)*  
*(cf. 5113.11 - Attendance Supervision)*

The Superintendent or designee shall ensure continuity of instruction for students who may be under a quarantine order to stay home, by offering such students independent study or other instructional delivery channels that allows the student to continue to participate in the instructional program to the greatest extent possible.

### **Nondiscrimination**

The Board prohibits discrimination based on actual or perceived medical condition or disability status. (Government Code 11135)

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

Individual students and staff shall not be identified as being COVID-positive, nor shall students be shamed, treated differently, or denied access to a free and appropriate public education because of their COVID-19 status or medical condition. Staff shall not disclose confidential or privileged information, including the medical history or health information of students and staff except as allowed by law. (Education Code 49450)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

The Superintendent or designee shall investigate any reports of harassment, intimidation, and bullying targeted at any student based on their medical condition or COVID status, exposure, or high-risk status.

*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 5131.2 - Bullying)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

*Legal Reference: (see next page)*

## COVID-19 MITIGATION PLAN (continued)

### *Legal Reference:*

#### EDUCATION CODE

32090-32095 *COVID-19 reporting and public health requirements*  
43520-43525 *In-person instruction and expanded learning opportunities grants*  
44978 *Sick leave for certificated employees*  
45191 *Leave of absence for illness and injury, classified employees*  
48205 *Excused absences*  
48213 *Prior parent notification of exclusion; exemption*  
48240 *Supervisors of attendance*  
49451 *Exemption from physical exam; exclusion from attendance*

#### GOVERNMENT CODE

11135 *Nondiscrimination in programs or activities funded by state*  
54950-54963 *The Brown Act*  
12945.1-12945.2 *California Family Rights Act*

#### HEALTH AND SAFETY CODE

120175-120255 *Functions and duties of local health officers*  
120230 *Exclusion from attendance*  
120275 *Violations of quarantine order*  
131080 *Advice to and control of local health authorities*

#### CODE OF REGULATIONS, TITLE 2

11087-11098 *California Family Rights Act*

#### CODE OF REGULATIONS, TITLE 5

202 *Exclusion from attendance*  
306 *Explanation of absence*  
420-421 *Record of verification of absence due to illness and other causes*

#### CODE OF REGULATIONS, TITLE 8

3205 *COVID-19 prevention*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Sample School Board Resolution on Grading During Emergency School Closures*  
*The Resource Guide: Turning Crisis into Opportunity, Delegate Assembly Report, May 2021*  
*Understanding and Addressing Disruptions to Learning During the COVID-19 Pandemic, May 2021*

#### CALIFORNIA COLLABORATION FOR EDUCATIONAL EXCELLENCE PUBLICATIONS

*Statewide Instructional Mode Survey Frequently Asked Questions (FAQs), September 14, 2021*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Safe Return to In-Person Instruction and Continuity of Services Plan Template*

#### CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

*COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year, September 1, 2021*

*Requirement for Universal Masking Indoors at K-12 Schools, August 23, 2021*

*State Public Health Officer Order of August 11, 2021*

*State Public Health Officer Order of June 11, 2021*

*Management Resources: (see next page)*

**COVID-19 MITIGATION PLAN (continued)***Management Resources continued:*

CALIFORNIA DIVISION OF OCCUPATIONAL SAFETY AND HEALTH PUBLICATIONS

COVID-19 Prevention Emergency Temporary Standards - Fact Sheets, Model Written Program and Other Resources

CALIFORNIANS TOGETHER PUBLICATIONS

Teaching and Learning During Uncertain Times: A Review of Learning Continuity Plans

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Guidance for COVID-19 Prevention in K-12 Schools, August 5, 2021

INSTITUTE OF EDUCATION SCIENCES PUBLICATIONS

Addressing Trauma in Educational Settings, Module 1: Impacts and Symptoms of Trauma and Relevant Strategies to Support Students, Webinar, November 2020

NATIONAL CENTER FOR LEARNING DISABILITIES PUBLICATIONS

Promising Practices to Accelerate Learning for Students with Disabilities During COVID-19 and Beyond

NATIONAL SCHOOL PUBLIC RELATIONS ASSOCIATION PUBLICATIONS

Coronavirus Communications Crisis for Public Schools guide

OFFICE OF MANAGEMENT AND BUDGET PUBLICATIONS

Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) Due to Loss of Operations, Memorandum M-20-17, March 19, 2020

Evidence-Based Practices for Assessing Students' Social and Emotional Well-Being, February 2021

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Confronting COVID-19-Related Harassment in Schools, August 2021

ED COVID-19 Handbook, Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools, August 2021

ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs, August 2021

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021

WEB SITES

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

California Collaborative for Educational Excellence: <https://ccee-ca.org>

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

California Department of Public Health: <https://www.cdph.ca.gov>

Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov>

California Division of Occupational Safety and Health: <https://www.dir.ca.gov/dosh>

California Interscholastic Federation: <https://cifstate.org/covid-19/index>

Office of the Governor: <https://www.gov.ca.gov>

Office of Management and Budget: <https://www.whitehouse.gov/omb>

State of California Safe Schools for All Hub: <https://schools.covid19.ca.gov>

U.S. Department of Labor: <https://www.dol.gov>

World Health Organization: <https://www.who.int>



**EMERGENCY SCHEDULES**

In order to provide for the safety of students and staff, the Governing Board authorizes the Superintendent or designee to close a school site, change the regular school day schedule, or take any necessary action when hazardous environmental or weather conditions or other emergencies warrant.

*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 4157/4257/4357 - Employee Safety)*  
*(cf. 5142 - Safety)*  
*(cf. 6112 - School Day)*

When an emergency condition causes a school closure, reduction in attendance, or change in schedule pursuant to Education Code 41422 or 46392, thereby preventing the district from complying with the minimum number of instructional days or minutes required by law, the Superintendent or designee shall complete and submit to the Superintendent of Public Instruction (SPI) the necessary forms and/or affidavits for obtaining approval of apportionment credit for the days of the closure, reduction in attendance, or change in schedule. The Superintendent or designee shall submit other relevant district records as may be required.

*(cf. 3580 - District Records)*  
*(cf. 6111 - School Calendar)*

For school closures due to emergency events occurring after September 1, 2021, the Superintendent or designee shall develop a plan for offering independent study within 10 days of school closure to any student impacted by the emergency condition. The plan shall also address the establishment, within a reasonable time, of independent study master agreements as specified in BP 6158 - Independent Study. The plan shall require reopening in person as soon as possible once allowable under the direction from the city or county health officer. The Superintendent or designee shall certify that the district has a plan for independent study in the affidavit submitted to the SPI pursuant to Education Code 46392. (Education Code 46393)

*(cf. 6158 - Independent Study)*

The Superintendent or designee may provide a means to make up lost instructional time later during the year. Students and parents/guardians shall receive timely notice in advance of any resulting changes in the school calendar or school day schedule.

*Legal Reference:*

EDUCATION CODE

41420 Required length of school term

41422 Schools not maintained for 175 days

46010 Total days of attendance

46100- 46208 Attendance; maximum credit; minimum day

46390 Calculation of ADA in emergency  
46391 Lost or destroyed ADA records  
46392 Decreased attendance in emergency situation  
46393 Certification of plan for independent study  
VEHICLE CODE  
34501.6 School buses; reduced visibility

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION CORRESPONDENCE

90-01 Average Daily Attendance Credit During Periods of Emergency, February 10, 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Frequently Asked Questions - Form J-13A

WEB SITES

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

Policy  
adopted:  
**Certificated Personnel**

CSBA POLICY MANUAL UPDATE  
September 2021  
BP 4131(a)

## **STAFF DEVELOPMENT**

The Governing Board believes that, in order to maximize student learning, achievement, and well-being, certificated staff members must be continuously learning and improving relevant skills. The Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers to enhance their instructional and classroom management skills, become informed about changes in pedagogy and subject matter, and strengthen practices related to social-emotional development and learning.

*(cf. 6111 - School Calendar)*

The Superintendent or designee shall involve teachers, site and district administrators, and others, as appropriate, when creating, reviewing, and amending the district's staff development program. The Superintendent or designee shall ensure that the district's staff development program is aligned with district priorities for student learning, achievement and well-being, school improvement objectives, the local control and accountability plan, and other district and school plans.

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

*(cf. 0420 - School Plans/Site Councils)*

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

The district's staff development program shall assist certificated staff in developing knowledge and skills, including, but not limited to:

1. Mastery of subject-matter knowledge, including current state and district academic standards

*(cf. 6011 - Academic Standards)*

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

*(cf. 6142.2 - World Language Instruction)*

*(cf. 6142.3 - Civic Education)*

*(cf. 6142.5 - Environmental Education)*

*(cf. 6142.6 - Visual and Performing Arts Education)*

*(cf. 6142.7 - Physical Education and Activity)*

*(cf. 6142.8 - Comprehensive Health Education)*

*(cf. 6142.91 - Reading/Language Arts Instruction)*

*(cf. 6142.92 - Mathematics Instruction)*

*(cf. 6142.93 - Science Instruction)*

*(cf. 6142.94 - History-Social Science Instruction)*

2. Use of effective, subject-specific teaching methods, strategies, and skills
3. Use of technologies to enhance instruction and learning, including face-to-face, remote, or hybrid instruction

BP 4131(b)

## **STAFF DEVELOPMENT (continued)**

*(cf. 0440 - District Technology Plan)*

*(cf. 4040 - Employee Use of Technology)*

*(cf. 4113.5/4213.5/4313.5 - Working Remotely)*

*(cf. 6158 - Independent Study)*

*(cf. 6163.4 - Student Use of Technology)*

4. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students with characteristics specified in Education Code 200 and/or 220, Government Code 11135, and/or Penal Code 422.55

*(cf. 0410 - Nondiscrimination/Harassment)*

*(cf. 0415 - Equity)*

*(cf. 4112.22 - Staff Teaching English Learners)*

*(cf. 4112.23 - Special Education Staff)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 5147 - Dropout Prevention)*

*(cf. 6141.5 - Advanced Placement)*

*(cf. 6171 - Title I Programs)*

*(cf. 6172 - Gifted and Talented Student Program)*

*(cf. 6173 - Education for Homeless Children)*

*(cf. 6173.1 - Education for Foster Youth)*  
*(cf. 6174 - Education for English Learners)*  
*(cf. 6175 - Migrant Education Program)*

5. Understanding of how academic and career technical instruction can be integrated and implemented to increase student learning

*(cf. 6178 - Career Technical Education)*

6. Knowledge of strategies that encourage parents/guardians to participate fully and effectively in their children's education

*(cf. 1240 - Volunteer Assistance)*  
*(cf. 5020 - Parent Rights and Responsibilities)*  
*(cf. 6020 - Parent Involvement)*

7. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, acceptance, and civility, including conflict resolution, hatred prevention, and positive behavioral interventions and supports

*(cf. 1313 - Civility)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.2 - Bullying)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 5144 - Discipline)*  
*(cf. 5145.9 - Hate-Motivated Behavior)*

BP 4131(c)

## **STAFF DEVELOPMENT (continued)**

8. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn

9. Ability to interpret and use data and assessment results to guide instruction

*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 6162.5 - Student Assessment)*

10. Knowledge of topics related to student mental and physical health, safety, and welfare, which may include social-emotional learning and trauma-informed practices

*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 5030 - Student Wellness)*  
*(cf. 5131.6 - Alcohol and Other Drugs)*  
*(cf. 5131.63 - Steroids)*  
*(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)*  
*(cf. 5141.22 - Infectious Diseases)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5141.5 - Mental Health)*

*(cf. 5141.52 - Suicide Prevention)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*  
*(cf. 5145.7 - Sexual Harassment)*  
*(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*

11. Knowledge of topics related to employee health, safety, and security

*(cf. 3514.1 - Hazardous Substances)*  
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*  
*(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)*  
*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*  
*(cf. 4119.42/4219.42/4319.42- Exposure Control Plan for Bloodborne Pathogens)*  
*(cf. 4119.43/4219.43/4319.43 - Universal Precautions)*  
*(cf. 4157/4257/4357 - Employee Safety)*  
*(cf. 4158/4258/4358 - Employee Security)*

The Superintendent or designee shall, in conjunction with teachers, interns, and administrators, as appropriate, develop an individualized program of professional growth to increase competence, performance, and effectiveness in teaching and classroom management and, as necessary, to assist them in meeting state or federal requirements to be fully qualified for their positions.

*(cf. 4112.2 - Certification)*  
*(cf. 4112.21 - Interns)*  
*(cf. 4131.1 - Teacher Support and Guidance)*

BP 4131(d)

**STAFF DEVELOPMENT** (continued)

Professional learning opportunities offered by the district shall be evaluated based on the criteria specified in Education Code 44277. Such opportunities may be part of a coherent plan that combines school activities within a school, including lesson study or co-teaching, and external learning opportunities that are related to academic subjects taught, provide time to meet and work with other teachers, and support instruction and student learning. Learning activities may include, but are not limited to, mentoring projects for new teachers, extra support for teachers to improve practice, and collaboration time for teachers to develop new instructional lessons, select or develop common formative assessments, or analyze student data. (Education Code 44277)

The district's staff evaluation process may be used to recommend additional individualized staff development for individual employees.

*(cf. 4115 - Evaluation/Supervision)*

The Board may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

*(cf. 3100 - Budget)*  
*(cf. 3350 - Travel Expenses)*

The Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to both staff and students and shall regularly report to the Board regarding the effectiveness of the staff development program. Based on the

Superintendent's report, the Board may revise the program as necessary to ensure that the staff development program supports the district's priorities for student achievement and well-being.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

BP 4131(e)

## **STAFF DEVELOPMENT (continued)**

*Legal Reference:*

EDUCATION CODE

200 Educational equity

218 Lesbian, gay, bisexual, transgender, queer, and questioning student resources

220 Prohibition of discrimination

44032 Travel expense payment

44259.5 Standards for teacher preparation

44277 Professional growth programs for individual teachers

44300 Emergency permits

44325-44328 District interns

44450-44468 University internship program

44830.3 District interns 45028 Salary schedule and exceptions

48980 Notification of parents/guardians; schedule of minimum days

51745-51749.6 Independent study

52060-52077 Local control and accountability plan

56240-56245 Staff development; service to persons with disabilities

99200-99204 Subject matter projects

GOVERNMENT CODE

3543.2 Scope of representation of employee organization

11135 Discrimination

PENAL CODE

422.55 Hate crime

CODE OF REGULATIONS, TITLE 5

13025-13044 Professional development and program improvement

80021 Short-term staff permit

80021.1 Provisional internship permit

80023-80026.6 Emergency permits

UNITED STATES CODE, TITLE 20

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

6601-6692 Preparing, training, and recruiting high quality teachers and principals

UNITED STATES CODE TITLE 29

794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

12101-12213 Americans with Disabilities Act

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990) PERB Dec. No. 804, 14 PERC P21085

Management Resources: (see next page)

BP 4131(f)

**STAFF DEVELOPMENT (continued)**

Management Resources:

CSBA PUBLICATIONS

Governing to the Core: Professional Development for Common Core, Governance Brief, May 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Digital Learning Integration and Standards Guidance, June 2021

Social and Emotional Learning in California, A Guide to Resources, October 2018

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession (CSTP), 2009

WEB SITES

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

California Department of Education, Professional Learning: <http://www.cde.ca.gov/pd>

California Department of Education, Supporting LGBTQ+ Students:

<https://www.cde.ca.gov/pd/ee/supportlgbtq.asp>

California Subject Matter Project: <http://csmf.ucop.edu>

Collaborative for Academic, Social, and Emotional Learning: <https://casel.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Public Employment Relations Board: <https://perb.ca.gov>

Policy  
adopted:  
**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
BP 6120(a)

## **RESPONSE TO INSTRUCTION AND INTERVENTION**

The Governing Board desires to improve learning and behavioral outcomes for all students by providing a high-quality, data-driven educational program that meets the learning and behavioral needs of each student and reduces disparities in achievement among subgroups of students. Students who are not making academic progress pursuant to district measures of performance and/or are struggling behaviorally shall receive intensive instruction and intervention supports designed to meet individual learning needs, with progress monitored.

*(cf. 0000 - Vision)*  
*(cf. 0200 - Goals for the School District)*  
*(cf. 0415 - Equity)*  
*(cf. 0460 - Local Control and Accountability Plan)*  
*(cf. 6000 - Concepts and Roles)*  
*(cf. 6011- Academic Standards)*

The Superintendent or designee shall convene a team that may include, as appropriate, staff with knowledge of curriculum and instruction, student services, special education, and instructional and behavioral support, certificated personnel, other district staff, and parents/guardians to assist in designing the district's Response to Instruction and Intervention



(RtI<sup>2</sup>) system, based on an examination of indicators of district and schoolwide student achievement and social-emotional well-being.

*(cf. 0500 - Accountability)*  
*(cf. 4115 - Evaluation/Supervision)*  
*(cf. 5123 - Promotion/Acceleration/Retention)*  
*(cf. 5147 - Dropout Prevention)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6171 - Title I Programs)*  
*(cf. 6174 - Education for English Learners)*  
*(cf. 6179 - Supplemental Instruction)*

The district's RtI<sup>2</sup> system shall include instructional strategies and interventions with demonstrated effectiveness and be aligned with the district curriculum and assessments. The Superintendent or designee may conduct ongoing screening to determine student needs, analyze data, identify interventions for students not making adequate academic progress, monitor the effectiveness of the interventions, and adjust interventions according to efficacy.

*(cf. 6141 - Curriculum Development and Evaluation)*  
*(cf. 6142.91 - Reading/Language Arts Instruction)*  
*(cf. 6142.92 - Mathematics Instruction)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6162.51 - State Academic Achievement Tests)*  
*(cf. 6190 - Evaluation of the Instructional Program)*

The district's RtI<sup>2</sup> system shall include research-based, standards-based, culturally relevant instruction for students in the general education program; universal screening and continuous classroom monitoring to determine students' needs and to identify those students who are not

BP 6120(b)

## **RESPONSE TO INSTRUCTION AND INTERVENTION (continued)**

making progress; criteria for determining the types and levels of interventions to be provided; and subsequent monitoring of student progress to determine the effectiveness of the intervention and to make changes as needed.

Additionally, the districts RtI<sup>2</sup> system shall provide for:

1. High-quality classroom instruction
2. High expectations

*(cf. 6173 - Education for Homeless Children)*  
*(cf. 6173.1 - Education for Foster Youth)*  
*(cf. 6173.2 - Education of Children of Military Families)*

3. Assessments and data collection
4. Problem-solving systems approach

5. Research-based interventions
6. Positive behavioral support
7. Fidelity of program implementation
8. Staff development and collaboration, which may include training in the use of assessments, data analysis, research-based instructional practices and strategies and emphasize a collaborative approach of professional learning communities among teachers within and across grade spans

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

9. Parent/guardian and family involvement, including collaboration and engagement

The Superintendent or designee shall ensure that parents/guardians are involved at all stages of the instructional, intervention, and progress monitoring process. Parents/guardians shall be kept informed of the services that have and will be provided, the strategies being used to increase the student's rate of learning, the supports provided to improve behavioral difficulties, and the performance data that has and will be collected.

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 6020 - Parent Involvement)*

BP 6120(c)

## **RESPONSE TO INSTRUCTION AND INTERVENTION** (continued)

10. Consideration of further evaluation utilizing RtI<sup>2</sup> data

The RtI<sup>2</sup> system may be utilized as one component when considering the referral of a student for evaluation for special education or other services.

*(cf. 6159 - Individualized Education Program)*

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

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

*(cf. 6164.5 - Student Success Teams)*

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

### *Legal Reference:*

EDUCATION CODE

56329 Assessment, written notice to parent

56333-56338 Eligibility for specific learning disabilities

56500-56509 Procedural safeguards

UNITED STATES CODE, TITLE 20

1400-1482 *Individuals with Disabilities Education Act, especially:*  
1416 *Monitoring, technical assistance, and enforcement*  
CODE OF FEDERAL REGULATIONS, TITLE 34  
300.301-300.11 *Evaluations, reevaluations, and additional procedures for identifying children with specific learning disabilities*  
COURT DECISIONS  
M.M. v. Lafayette School District (9<sup>th</sup> Cir. 2014) 767 F.3d 842

*Management Resources:*

CSBA PUBLICATIONS

Best Practices in Special Education, Governance Brief, May 2019  
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Disproportionality Calculation Methodologies

NATIONAL COUNCIL ON DISABILITY PUBLICATIONS

IDEA Series: Every Student Succeeds Act and Students with Disabilities, February 2018

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

WEB SITES

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

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

National Center for Learning Disabilities RTI Action Network: <http://www.rtinetwork.org>

National Council on Disability: <https://ncd.gov>

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

Regulation  
approved:  
**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
BP 6164.4(a)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

The Governing Board 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.

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

*(cf. 6164.41 - Children with Disabilities Enrolled by Their Parents in Private School)*

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

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

The district's identification procedures shall include systematic methods for utilizing referrals from parents/guardians, teachers, agencies, appropriate professionals, and other members of the public, 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 for special education services. (Education Code 56301)

*(cf. 3541.2 - Transportation for Students with Disabilities)*

*(cf. 4112.23 - Special Education Staff)*

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

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6159 - Individualized Education Program)*

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

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

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

*(cf. 6162.51 - State Academic Achievement Tests)*

*Legal Reference: (see next page)*

BP 6164.4(b)

## **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:*

*56043 Timelines affecting special education programs*

*56195.8 Adoption of policies*

*56300-56305 Identification of individuals with disabilities*

*56320-56330 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*  
1400-1482 *Individuals with Disabilities Education Act, especially:*  
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*  
300.323 *When IEPs must be in effect*  
300.502 *Independent educational evaluation*  
FEDERAL REGISTER  
*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*  
COURT DECISIONS  
*Timothy O. v. Paso Robles Unified School District (9th Cir. 2016) 822 F.3d 1105*  
*M.M. v. Lafayette School District (9th Cir. 2014) 767 F.3d 842*  
*Compton Unified School District v. Addison, (9th Cir. 2010) 598 F.3d 1181*  
*N.B. and C.B v. Hellgate Elementary School District (9th Cir. 2008) 541 F.3d 1202*  
*Hood v. Encinitas Union School District (2007) 486 F.3d 1099*

*Management Resources: (see next page)*

BP 6164.4(c)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS  
*California Practitioners' Guide for Educating English Learners with Disabilities, 2019*  
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS  
*Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021*  
*Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021*  
*A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011*  
WEB SITES  
*California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>*  
*U.S. Department of Education, Office of Special Education Programs: <http://www.ed.gov/about/offices/list/osers/osep>*

Policy  
adopted:  
**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
AR 6164.4(a)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

### **Referrals for Special Education Services**

The Superintendent or designee shall ensure that the district's child find process includes the collection of data and, at reasonable intervals, the screening of such data to determine if students are making adequate progress, as appropriate.

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. (Education Code 56303)

However, the district shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

*(cf. 6120 - Response to Instruction and Intervention)*  
*(cf. 6164.5 - Student Success Teams)*

A parent/guardian or the district may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff for an initial evaluation 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, when appropriate, the results of intervention. This documentation shall not delay the timelines for completing the assessment plan or assessment. (5 CCR 3021)

### **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. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 calendar days, not counting days between the student's regular school sessions or terms or calendar 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. (Education Code 56043, 56321)

AR 6164.4(b)

### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

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

*(cf. 6159 - Individualized Education Program)*

A copy of the notice of a parent/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (Education Code 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code section 52164.1. (5 CCR 3022)

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: (Education Code 56329; 34 CFR 300.304, 300.502, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or the parent/guardian's 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, if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.

AR 6164.4(c)

#### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

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, the parent/guardian 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.

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 the student's 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.

AR 6164.4(d)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION** (continued)

*(cf. 5145.6 - Parental Notifications)*

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

*(cf. 6164.41 - Children with Disabilities Enrolled by their Parents in Private School)*

### **Parent/Guardian Consent for Evaluations**

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether 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. (Education Code 56321; 34 CFR 300.300)

*Informed parental consent* means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in the parent/guardian's 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 parent/guardian 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 the parent/guardian's part and may be revoked at any time
4. Understands that if the parent/guardian 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 is not required to amend the education records of a student to remove any reference to the student's receipt of special education and services if the student's parent/guardian submits a written revocation of consent after the initial provision of special education and related services to the student.

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. (Education Code 56321; 34 CFR 300.300, 300.322)

The district shall maintain a record of its attempts to obtain consent, which may include:

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

AR 6164.4(e)

### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION** (continued)

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

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. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with the student's parent/guardian, the district shall make reasonable efforts to obtain the informed consent from the parent of the student for an initial evaluation to determine whether the student is a student with a disability. The district may conduct an initial evaluation without obtaining informed consent

if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

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 state law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

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

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or reevaluation, or before administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

### **Conduct of the Evaluation**

Within 60 calendar days of receiving parental consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence on the date that student

AR 6164.4(f)

### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

schooldays reconvene and a meeting to develop an IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56043, 56344; 34 CFR 300.301, 300.323)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code 56320, 56322)

In addition, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

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. (Education Code 56321; 20 USC 1414; 34 CFR 300.302)

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 the student's 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. (34 CFR 300.304)

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. (34 CFR 300.304)

AR 6164.4(g)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION** (continued)

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: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the student's native language or other mode of communication and in the 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 except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist
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, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that 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. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code 56136. 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. (Education Code 56320; 34 CFR 300.304)

AR 6164.4(h)

## **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: (Education Code 56381; 34 CFR 300.305)

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 the student's 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. (34 CFR 300.304)

### **Evaluation Report**

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: (Education Code 56327)

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

AR 6164.4(i)

### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

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

## **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 as defined in 5 CCR 3030 and 34 CFR 300.8 and, if so, the student's 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. (34 CFR 300.306)

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. (Education Code 56329; 34 CFR 300.306)

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

## **Independent Educational Evaluation**

An *independent educational evaluation* is defined as an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502)

*Public expense* means that 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. (34 CFR 300.502)

AR 6164.4(j)

## **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria, including the location of the evaluation and the qualifications of the examiner, that the district uses for a district-initiated evaluation. (34 CFR 300.502)

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. (Education Code 56329; 34 CFR 300.502)

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

providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation. (34 CFR 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either: (34 CFR 300.502)

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 demonstrates 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. (Education Code 56329; 34 CFR 300.502)

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. (Education Code 56329; 34 CFR 300.502)

### **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

AR 6164.4(k)

### **IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)**

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. (Education Code 56043, 56381; 34 CFR 300.303)

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. (34 CFR 300.303)

Before entering kindergarten or first grade, as the case may be, 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. (Education Code 56445)



*(cf. 5148.3 - Preschool/Early Childhood Education)*

Regulation  
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**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
BP 6164.41(a)

### **CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL**

The Governing Board recognizes its obligations under state and federal to locate, identify, evaluate, and provide equitable services to children voluntarily enrolled by their parents/guardians in private schools located within the district.

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

The Superintendent or designee shall ensure that activities to locate, identify, and evaluate children with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities aged three to 22 in public schools within the district. (Education Code 56171; 34 CFR 300.131)

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

The Superintendent or designee shall develop a budget for the provision of services to children with disabilities enrolled by their parents/guardians in private school based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees, and the types of services to be provided.

*Legal Reference:*

EDUCATION CODE

56000 *Education for individuals with exceptional needs*

56020-56035 *Definitions*

56170-56177 *Children in private schools*

56195.8 *Adoption of policies for programs and services*

56300-56385 *Identification and referral, assessment*

56500-56509 *Procedural safeguards, including due process rights*

56600-56606 *Evaluation, audits and information*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act*

1400-1482 *Individuals with Disabilities Education Act, especially:*

1412 *State eligibility*

UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

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

300.130-300.144 *Children with disabilities enrolled by their parents in private schools*

FEDERAL REGISTER

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

COURT DECISIONS

*Agostini v. Felton (1997) 521 U.S. 203*

*Management Resources: (see next page)*

BP 6164.41(b)

**CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)**

*Management Resources:*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021*

*Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021*

*A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011*

*Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, April 2011*

WEB SITES

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

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

Policy  
adopted:  
**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
AR 6164.41(a)

## **CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL**

### **Definitions**

*Parentally-placed private school children with disabilities* means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state. (34 CFR 300.130, 300.131)

*Private school or facility* means a private full-time day school, including a religious school, located within district boundaries, that has filed an affidavit with the California Department of Education pursuant to Education Code 33190 and is registered in the California Private School Directory.

## **Consultation with Private School Representatives**

The Superintendent or designee shall consult with all private school representatives and representatives of parents/guardians of parentally-placed private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: (Education Code 56301; 20 USC 1412(a)(10)(A)(iii); 34 CFR 300.134)

1. The child find process and how parentally-placed private school children suspected of having a disability can participate equitably
2. The manner in which parents/guardians, teachers, and private school officials will be informed of the child find process
3. The determination of the proportionate share of federal funds available to serve parentally-placed private school children with disabilities and how this share is calculated
4. How the consultation process among district staff, private school officials, and representatives of parents of parentally-placed private school children with disabilities will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services
5. The provision of equitable special education and related services including how, when, and by whom such services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made

AR 6164.41(b)

## **CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)**

6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services

When meaningful and timely consultation has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. (Education Code 56172; 20 USC 1412; 34 CFR 300.135)

After the consultation has occurred, the district shall ensure an annual count of the number of parentally-placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

### **Provision of Services**

A child with a disability parentally-placed in a private school has no individual right to receive some or all of the special education and related services that would have been received if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR 300.137, 300.138)

The district shall evaluate all identified parentally-placed private school children with disabilities for purposes of considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311 and as specified in BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education, including obtaining parent/guardian consent and providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 300.504)

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

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

If the child resides in the district and is eligible for an individualized education program (IEP), the district shall make a free appropriate public education (FAPE) available to the child. However, the district is not required to develop an IEP if the parent/guardian makes clear the intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification confirming the parent/guardian's intention to keep the child

AR 6164.41(c)

### **CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)**

enrolled in private school, including the fact that the parent/guardian is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

The district shall develop and implement for each identified child with a disability enrolled by their parents/guardians in a private school within the district's boundaries an individual services plan (ISP) that describes the equitable services that the district will provide, as determined by the district after the consultation process with private school representatives. (34 CFR 300.138)

The ISP shall be developed, reviewed, and revised consistent with 20 USC 1414. A representative of the private school shall be invited to attend each ISP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

*(cf. 6159 - Individualized Education Program)*

The district may provide services on the private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the special education teacher qualification requirements specified in 34 CFR 300.156. The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the property of the district and must be able to be removed without remodeling or causing

AR 6164.41(d)

#### **CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL** (continued)

damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

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CSBA POLICY MANUAL UPDATE  
September 2021  
BP 6164.5(a)

## **STUDENT SUCCESS TEAMS**

The SST is an early intervention process that brings together parents/guardians, certificated and classified staff, administrators, and/or the student, as appropriate, to identify student needs and develop an improvement plan to address those needs.

The Governing Board encourages the collaboration of parents/guardians, certificated and classified staff, administrators, and/or the student, as appropriate, in evaluating the strengths and needs of students having academic, attendance, social, emotional, or behavioral difficulties and in identifying strategies and programs that may assist such students in maximizing their potential. The Superintendent or designee shall establish student success teams (SST) as needed to address individual student needs.

*(cf. 5113.1 - Chronic Absence and Truancy)*  
*(cf. 5147 - Dropout Prevention)*  
*(cf. 6159 - Individualized Education Program)*  
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*  
*(cf. 6164.6 - Identification and Education under Section 504)*

The Superintendent or designee shall establish and maintain a process for initiating the referral of students to SSTs, which may include referral by district staff, parents/guardians, and/or agency representatives. The Superintendent or designee may also establish and maintain a process for responding to SST referrals, which may include a determination by the district as to whether an SST shall be convened for an individual student.

Each SST may collect and analyze relevant student data, as appropriate. The SST may also review the student's educational history, work samples, strengths and areas for growth, and identify available resources and strategies.

*(cf. 5022 - Student and Family Privacy Rights)*  
*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 5125 - Student Records)*  
*(cf. 5141.6 - School Health Services)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6162.51 - State Academic Achievement Tests)*  
*(cf. 6164.2 - Guidance/Counseling Services)*

Each SST shall develop a plan to support the student which incorporates intervention strategies. Such strategies may include changes in program placement or instructional methods, recommendation of supplemental educational services, parent involvement strategies, social, emotional and/or behavioral interventions, discipline, referrals to other agencies or resources, and/or other appropriate interventions.

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*  
*(cf. 5123 - Promotion/Acceleration/Retention)*  
*(cf. 5141.3 - Health Examinations)*  
*(cf. 5141.5 - Mental Health)*  
*(cf. 5144 - Discipline)*

BP 6164.5(b)

## **STUDENT SUCCESS TEAMS (continued)**

*(cf. 5146 - Married/Pregnant/Parenting Students)*  
*(cf. 6020 - Parent Involvement)*  
*(cf. 6120 - Response to Instruction and Intervention)*  
*(cf. 6158 - Independent Study)*  
*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*  
*(cf. 6171 - Title I Programs)*  
*(cf. 6172 - Gifted and Talented Student Program)*  
*(cf. 6173 - Education for Homeless Children)*  
*(cf. 6173.1 - Education for Foster Youth)*  
*(cf. 6173.2 - Education of Children of Military Families)*  
*(cf. 6174 - Education for English Learners)*  
*(cf. 6175 - Migrant Education Program)*



(cf. 6176 - Weekend/Saturday Classes)  
(cf. 6177 - Summer Learning Programs)  
(cf. 6178 - Career Technical Education)  
(cf. 6178.1 - Work-Based Learning)  
(cf. 6179 - Supplemental Instruction)  
(cf. 6181 - Alternative Schools/Programs of Choice)  
(cf. 6183 - Home and Hospital Instruction)  
(cf. 6184 - Continuation Education)  
(cf. 6185 - Community Day School)

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

The SST process shall not delay or deny a referral for evaluation for eligibility for special education, as may be required under state or federal law.

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

The Superintendent or designee may integrate SSTs into the district's multi-tiered system of support, including identification of students who need additional support, the level(s) of support, appropriate interventions, monitoring of progress, and whether the goal of intervention has been met.

(cf. 0460 - Local Control and Accountability Plan)

To strengthen the effectiveness of SSTs, the Superintendent or designee may provide staff development in the identification of students who may need additional support, implementation of measurable and targeted interventions, and monitoring of progress and goal attainment.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

*Legal Reference: (see next page)*

BP 6164.5(c)

## **STUDENT SUCCESS TEAMS (continued)**

*Legal Reference:*

EDUCATION CODE

8800-8807 Healthy Start support services for children

48260-48273 Truancy

48400-48454 Continuation education

49600-49604 Educational counseling

51745-51749.6 Independent study programs

52060-52077 Local control and accountability plan

54400-54425 Programs for disadvantaged children

54440-54445 Migrant children

56300-56305 *Identification and referral*  
WELFARE AND INSTITUTIONS CODE  
4343-4352.5 *Primary interventions program, mental health*  
18986.40-18986.46 *Interagency children's services*

*Management Resources:*

CSBA PUBLICATIONS

*Best Practices in Special Education, Governance Brief, May 2019*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021*

*A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011*

WEB SITES

*California Department of Education, multi-tiered systems of support: <http://www.cde.ca.gov/ci/cr/ri>*

*National Dropout Prevention Center: <http://www.dropoutprevention.org>*

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

*<https://www2.ed.gov/about/offices/list/osep>*

Policy  
adopted:  
**Instruction**

CSBA POLICY MANUAL UPDATE  
September 2021  
AR 6164.5(a)

## **STUDENT SUCCESS TEAMS**

### **Team Membership**

Members of individual student success teams (SST) 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. School Counselor(s)
6. Resource personnel or specialists, such as a school psychologist, nurse, outreach consultant, special education resource person, department chairperson, speech and language specialist, reading specialist, social worker, probation officer, community resource representative, mental health worker, and/or other person(s) relevant to the student's situation, as determined by the district

The makeup of each individual SST is at the district's discretion, and may not include participation from individuals in each of the categories listed above.

### **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 staff, including teachers and/or district resource personnel
4. Arrange for observation of the student as needed
5. Collect any additional background information necessary to inform team members about the student's strengths and needs, such as relevant student data, educational history, and work samples, as appropriate

*(cf. 5022 - Student and Family Privacy Rights)*

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

*(cf. 5125 - Student Records)*

*(cf. 6162.5 - Student Assessment)*

*(cf. 6162.51 - State Academic Achievement Tests)*

AR 6164.5(b)

### **STUDENT SUCCESS TEAMS (continued)**

6. Help the student and parents/guardians prepare for the meeting
7. Facilitate the team meetings
8. Develop a plan to support the student which incorporates intervention strategies

*(cf. 3552 - Summer Meal Program)*

*(cf. 3553 - Free and Reduced Price Meals)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 5141.5 - Mental Health)*

*(cf. 5141.52 - Suicide Prevention)*  
*(cf. 5141.6 - School Health Services)*  
*(cf. 5144 - Discipline)*  
*(cf. 6141.4 - International Baccalaureate Program)*  
*(cf. 6141.5 - Advanced Placement)*  
*(cf. 6152 - Class Assignment)*  
*(cf. 6152.1 - Placement in Mathematics Courses)*  
*(cf. 6158 - Independent Study)*  
*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*  
*(cf. 6164.6 - Identification and Education under Section 504)*  
*(cf. 6172 - Gifted and Talented Student Program)*  
*(cf. 6172.1 - Concurrent Enrollment in College Classes)*  
*(cf. 6176 - Weekend/Saturday Classes)*  
*(cf. 6177 - Summer Learning Programs)*  
*(cf. 6178 - Career Technical Education)*  
*(cf. 6178.1 - Work-Based Learning)*  
*(cf. 6179 - Supplemental Instruction)*  
*(cf. 6181 - Alternative Schools/Programs of Choice)*  
*(cf. 6183 - Home and Hospital Instruction)*  
*(cf. 6184 - Continuation Education)*  
*(cf. 6185 - Community Day School)*

9. Ensure that the student's progress is monitored, that follow-up meetings are regularly scheduled, and that adjustments are made to the plan and related interventions as necessary

Regulation  
approved:

CSBA POLICY MANUAL UPDATE  
September 2021