

Rescue Union School District

5-Feb-20

	GREEN VALLEY	JACKSON	LAKE FOREST	LAKEVIEW	RESCUE	MARINA VILLAGE	PLEASANT GROVE	Tot.
TR. KDG	20	21	20	46	22	0	0	129
KDG.*	68	61	68	77	71	0	0	345
FIRST	52	78	62	86	97	0	0	375
SECOND	60	72	63	84	78	0	0	357
THIRD	51	81	75	93	65	0	0	365
FOURTH	61	67	71	93	74	0	0	366
FIFTH	71	78	76	89	66	0	0	380
SIXTH	0	0	0	0	0	260	138	398
SEVENTH	0	0	0	0	0	284	155	439
EIGHTH	0	0	0	0	0	285	173	458
SDC			21				13	
*COOL School								
TOTAL	383	458	456	568	473	829	479	3653
Ending 18-19	402	509	423	545	474	809	516	3683
Difference	-19	-51	33	23	-1	20	-37	-30

**Low Housing Projection 2017-18	Variance
100	29
389	-44
348	27
349	8
362	3
363	3
393	-13
393	5
348	91
438	20
0	13
0	0
3483	170

**Projected enrollment is from Table 10 of the Demographic Study

NPS 7

ENROLLMENT HISTORY

	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE
2019/2020	NA	3611	3608	3609	3636	3652	3653				
2018/2019	3606	3619	3635	3638	3643	3691	3698	3694	3692	3692	3683
2017/2018	NA	3624	3632	3642	3655	3685	3688	3682	3684	3679	3672
2016/2017	3723	3709	3723	3731	3734	3774	3792	3792	3786	3794	3766
2015/2016	3666	3658	3673	3673	3676	3686	3707	3717	3734	3740	3733
2014/2015	3690	3697	3699	3702	3712	3735	3753	3771	3772	3775	N/A
2013/2014	3797	3775	3770	3776	3774	3797	3804	3821	3823	3825	N/A
2012/2013	3889	3902	3895	3900	3893	3885	3912	3919	3920	3929	N/A
2011/2012	3984	3984	3989	3995	3995	4002	4019	4024	4032	4038	N/A
2010/2011	4124	4088	4070	4071	4074	4083	4092	4099	4097	4095	N/A
2009/2010	4173	4123	4115	4116	4113	4119	4122	4121	4112	4115	4110
2008/2009	4176	4105	4104	4106	4115	4110	4095	4091	4097	4099	4117
2007/2008	4093	4079	4090	4094	4091	4097	4110	4096	4101	4085	4082
2006/2007	3916	3905	3918	3927	3934	3933	3952	3967	3964	3972	3973
<i>Diff 2018-2019</i>		<i>-8</i>	<i>-27</i>	<i>-29</i>	<i>-7</i>	<i>-39</i>	<i>-45</i>				
<i>Avg Diff</i>		<i>-18</i>	<i>-21</i>	<i>-21</i>	<i>-18</i>	<i>-22</i>	<i>-26</i>				

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: Board Policy Updates

BACKGROUND:

The Governing Board believes that its primary responsibility is to act in the best interests of every student in the district. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

STATUS:

Policies identified for review and/or changes are submitted to the Board for first reading and possible consideration of approval. A table providing a listing of revised policies and summary of changes is included.

FISCAL IMPACT:

NA

BOARD GOAL(S):

Board Focus Goal III – COMMUNICATION/COMMUNITY INVOLVEMENT:

Establish and maintain consistent and effective communication that is transparent and timely in an effort to provide and receive information that will engage and educate our District and community.

RECOMMENDATION:

Board receive board policies for first reading and possible consideration for action.

**RUSD Board Policy, Administrative Regulations and Board Bylaws
February 11, 2020**

POLICY	TITLE	REQUIREMENT
<i>First Reading</i>		
BP/AR 1312.1	Complaints Concerning District Employees REVISE	<p>Policy updated to reflect a court decision which held that a district cannot bar criticism of employees at public board meetings, and to add referral of complainants to the appropriate complaint procedures when concerns are expressed at a board meeting or to an individual board member outside a board meeting. Policy includes material formerly in AR regarding reports against employees for child abuse or neglect, and adds circumstances under which complaints should be addressed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures or AR 4030 - Nondiscrimination in Employment. Policy also adds material related to the investigation of a complaint, including an anonymous complaint, and includes material formerly in AR regarding appeals to the board. Regulation reorganized and updated to require that complaints be made in writing and to add steps regarding the investigation of the complaint and the notification of the complainant and employee regarding the final decision.</p> <p style="text-align: right;">5/19</p>
BP/AR 3551	Food Service Operations/Cafeteria Fund REVISED	<p>Policy updated to reflect NEW FEDERAL REGULATION (84 Fed. Reg. 8247) and updated California Department of Education (CDE) guidance giving districts with an average daily attendance of less than 2,500 greater flexibility in the hiring of food service directors. Policy also consolidates material on nondiscrimination toward students who have unpaid meal fees and those who participate in the free and reduced-price meal program. Regulation updated to reflect NEW LAW (AB 3043, 2018) which permits the use of cafeteria funds to (1) pay for the purchase of a mobile food facility and (2) supplement the cost of providing universal breakfast in districts that do not provide universal breakfast under a federal program, provided they submit the required certification to CDE. Regulation also updates section on U.S. Department of Agriculture (USDA) donated foods to reflect current requirements for the safe storage and control of the foods. In both policy and regulation, CDE and USDA guidance renumbered when superseded by newer guidance.</p> <p>7/19</p>

**RUSD Board Policy, Administrative Regulations and Board Bylaws
February 11, 2019**

POLICY	TITLE	REQUIREMENT
BP 5132	Dress and Grooming REVISE	<p>Policy updated to address communication of the dress code to students and staff; grant enforcement authority to the principal or designee; prohibit discriminatory enforcement of the dress code, including, but not limited to, discrimination based on gender identity, gender expression, or religious or cultural observance; and address disciplinary action for repeated violations or refusal to comply with the dress code. Policy also provides that the determination of specific items of clothing defined as gang apparel shall be free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics. Regulation updated to provide general, gender-neutral guidelines for the dress code that may be revised to reflect district practice; add circumstances under which the dress code should be modified for classes, activities, or individual students; and call for collaboration with law enforcement agencies to update definitions of gang-related apparel.</p> <p>Policy updated to reflect NEW LAW (SB 188) which prohibits discrimination against traits historically associated with race, including hair texture and "protective hairstyles" such as braids, locks, and twists.</p> <p>Policy updated to reflect NEW LAW (SB 188) which prohibits discrimination against traits historically associated with race, including hair texture and "protective hairstyles" such as braids, locks, and twists.</p> <p style="text-align: right;">10/19</p>
AR 5132	Dress and Grooming REVISE	<p>Policy updated to address communication of the dress code to students and staff; grant enforcement authority to the principal or designee; prohibit discriminatory enforcement of the dress code, including, but not limited to, discrimination based on gender identity, gender expression, or religious or cultural observance; and address disciplinary action for repeated violations or refusal to comply with the dress code. Policy also provides that the determination of specific items of clothing defined as gang apparel shall be free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics. Regulation updated to provide general, gender-neutral guidelines for the dress code that may be revised to reflect district practice; add circumstances under which the dress code should be modified for classes, activities, or individual students; and call for collaboration with law enforcement agencies to update definitions of gang-related apparel.</p> <p style="text-align: right;">5/19</p>

**RUSD Board Policy, Administrative Regulations and Board Bylaws
February 11, 2019**

POLICY	TITLE	REQUIREMENT
BP/AR 6142.1	Sexual Health and HIV/AIDS Prevention Instruction REVISE	Policy updated to more directly reflect the goals of the California Healthy Youth Act, incorporate the legal requirement for districts whose graduation requirements include completion of a health education course to include instruction on the affirmative consent standard, and reflect NEW LAW (SB 1104, 2018) which requires districts offering grades 6-12 to provide information on human trafficking prevention resources to parents/guardians by January 1, 2020. Policy also adds timeline for notification to parents/guardians that they may request to excuse their child from comprehensive sexual health and HIV prevention education. Regulation updated to reflect NEW LAW (AB 1861, 2018) which requires that comprehensive sexual health education include specified information regarding human trafficking, and NEW LAW (AB 1868, 2018) which authorizes instruction regarding the potential risks and consequences of electronically sharing suggestive or sexually explicit materials. Section on "Professional Development" updated to reflect a legal requirement to provide periodic staff development regarding sexual abuse and human trafficking. 5/19
AR 6145.2	Athletic Competition	Regulation updated to reflect NEW LAW (SB 1109, 2018) which requires districts to annually provide student athletes and their parents/guardians an opioid fact sheet produced by the Centers for Disease Control and Prevention. 7/19
BP 6179	Supplemental Instruction REVISE	Policy updated to reflect current law requiring the provision of remedial instruction to students who are recommended for retention or are identified as being at risk for retention. Policy also deletes reference to federal Title I program improvement which is no longer operational, and clarifies that schools identified for comprehensive or targeted school improvement may, but are not required to, offer supplemental instruction. 7/19
BB 9323	Meeting Conduct REVISE	Bylaw updated to clarify circumstances under which the board may exercise flexibility in allocating time for public input to ensure full opportunity for public input and presentation of the diversity of viewpoints. 10/19

**RUSD Board Policy, Administrative Regulations and Board Bylaws
February 11, 2019**

POLICY	TITLE	REQUIREMENT
BB/E 9323.2	Actions by the Board REVISE	<p>Bylaw updated to reference the timelines by which a civil action may be filed to determine the applicability of the Brown Act to past board actions, and to clarify the circumstances under which a board action cannot be invalidated. Exhibit 1 updated to consolidate several items related to situating a community day school on an existing school site, add board action to respond to an emergency facilities condition without giving notice for bids to let contracts (requiring two-thirds vote for three-member boards, or four-fifths vote for five-member and seven-member boards), and reflect NEW LAW (AB 2249) which amends the threshold requirements for public works projects bid pursuant to the Uniform Public Construction Cost Accounting Act. Section on "Actions Requiring a Unanimous Vote of the Board" updated to further explain the ability to authorize the use of day labor or force account and/or waive the competitive bid process when the board determines that an emergency exists. Exhibit 2 contains minor revision for clarity.</p> <p style="text-align: right;">3/19</p>

Rescue Union ESD

Board Policy

Complaints Concerning District Employees

BP 1312.1

Community Relations

Note: The following Board policy may be subject to collective bargaining and should be revised to reflect district practice. See the accompanying administrative regulation for a sample complaint procedure.

The Governing Board recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

Note: In Baca v. Moreno Valley Unified School District, a federal district court found that a district policy barring criticism of employees at public board meetings violated the plaintiff's First Amendment rights by restricting the content of speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. Thus, although the Governing Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit public criticism of district employees. See BB 9323 - Meeting Conduct.

When a concern regarding an employee is presented during a Board meeting or to an individual Board member or employee outside of a Board meeting, the complainant shall be informed of the appropriate complaint procedure.

(cf. 9323 - Meeting Conduct)

Any complaint regarding the Superintendent shall be initially filed in writing with the Board. The Board shall consult with legal counsel or appoint an appropriate agent to conduct the investigation.

The Superintendent or designee shall determine whether a complaint against any other employee should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for complaints concerning personnel and/or other district procedures. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Any complaint by an employee, job applicant, volunteer, intern, or independent contractor

alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.

~~The Governing Board accepts responsibility for providing a means by which the public can hold employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process.~~

~~The Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.~~

(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 3555 - Nutrition Program Compliance~~3515.2 - Disruptions~~)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4144/4244/4344 - Complaints)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

Any complaint subject to this policy and the accompanying administrative regulation shall be investigated by the principal, the employee's immediate supervisor, the Superintendent or designee, legal counsel, agent of the Board, and/or other appropriate person who is not the subject of the complaint or subordinate to the employee charged in the complaint. The complainant and the employee shall have an opportunity to present information relevant to the complaint.

Note: The following paragraph may be revised to reflect district practice. It is recommended that districts investigate all complaints, including those submitted anonymously, since failure to do so may subject the district to liability depending on the nature of the allegation. For example, the district can be held liable for civil damages for the sexual harassment of a student by an employee if the district is found to have been "deliberately indifferent" in its response to a complaint; see BP 5145.7 - Sexual Harassment.

A complaint that is filed anonymously may be investigated by the Superintendent or designee depending on the specificity and reliability of the information.

If a complainant requests confidentiality, the Superintendent or designee shall inform the complainant that the request may limit the district's ability to investigate the employee's conduct or take other necessary action. However, the Superintendent or designee shall take all reasonable steps to investigate and resolve the complaint without divulging the complainant's identity.

The Board prohibits retaliation against complainants.

Appeals

Note: The following **optional** section is for use by districts that allow appeals. Superintendent or designee at his/her discretion may keep a complainant's identity confidential, except to the Board and may be revised extent necessary to reflect district practice.

If either the complainant or the employee submits an appeal of the Superintendent's decision to the Board, the Board shall determine whether to uphold the Superintendent's decision without hearing, investigate the complaint, appoint an appeals committee to advise the Board, or hear the appeal itself.

(cf. 9130 - Board Committees)

Note: Government Code 54957 authorizes the use of closed session for hearing specific complaints or charges against employees, unless the employee requests an open session. For detailed procedures and notice requirements, see BB 9321 - Closed Session Purposes and Agendas.

If the Board decides to hear the complaint, the matter shall be addressed in closed session in accordance with Government Code 54957 unless the employee requests that it be heard in open session. The Board shall review the original complaint and additional information provided by the Superintendent or designee regarding the steps taken to resolve the issues desired.

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9323 - Meeting Conduct)

The Board's decision shall be final.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

33308.1 Guidelines on procedure for filing child abuse complaints

35146 Closed sessions

44031 Personnel file contents and inspection

44811 Disruption of public school activities

44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

48987 Child abuse guidelines

GOVERNMENT CODE

54957 Closed session; complaints re employees

54957.6 Closed session; salaries or fringe benefits

PENAL CODE

273 Cruelty or unjustifiable punishment of child

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction of juvenile court

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719

Management Resources:

~~CDE LEGAL ADVISORIES~~

~~0910.93— Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site (LO:4-93)~~

Policy RESCUE UNION SCHOOL DISTRICT
adopted: September 2003 Rescue, California
Considered: February 11, 2020

Rescue Union ESD

Administrative Regulation

Complaints Concerning District Employees

AR 1312.1
Community Relations

Note:

The following optional administrative regulation outlines Superintendent or designee shall determine whether a complaint should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for handling complaints concerning district personnel and may be subject to collective bargaining. This process should not be used for complaints concerning a Governing Board member; such complaints should be filed in writing directly with the Board.

The following regulation should be modified to reflect district practice.

Every effort should be made to resolve complaints regarding district employees at the earliest possible stage. Any person who complains about a district employee shall be encouraged to resolve the matter informally through direct communication with the employee whenever possible.

If a complainant is unable or unwilling to resolve the complaint directly with the employee, the complainant may submit a written complaint to the principal /or other immediate supervisor of the employee. Complaints related to a principal or district administrator shall be initially filed in writing with the Superintendent or designee. If the complainant is unable to prepare the complaint in writing, administrative staff shall provide assistance in the preparation of the complaint. district procedures.—

A written complaint shall include the full name of the employee involved, a brief but specific summary of the complaint and the facts surrounding it, and a description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.

(cf. 1312.2—Complaints Concerning Instructional Materials)

(cf. 1312.3—Uniform Complaint Procedures)

(cf. 4144/4244/4344—Complaints)

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against district employees:

~~1. Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, the complainant should communicate directly to the employee in order to resolve concerns.—~~

~~2. If a complainant is unable or unwilling to resolve the complaint directly with the employee, he/she may submit an oral or written complaint to the employee's immediate supervisor or the principal.~~

~~3. All complaints related to district personnel other than administrators shall be submitted in writing to the principal or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/her to do so. Complaints related to a principal or central office administrator shall be initially filed in writing with the Superintendent or designee. Complaints related to the Superintendent shall be initially filed in writing with the Board.~~

4. When a written complaint is received, the employee who is the subject of the complaint shall be notified within five days or in accordance with the collective bargaining agreement/agreements.

5. _____ A written complaint shall include:

a. _____

~~2. The principal or other immediate supervisor of the full name of each employee involved~~

b. _____ A brief but specific summary of the complaint and the facts surrounding it

~~c. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter~~

6. _____ Staff responsible for investigating complaints shall investigate and attempt to resolve the complaint to the satisfaction of the parties involved within 30 days. A complaint against a school or district administrator shall be investigated by the Superintendent or designee. The investigation may include interviews of the employee, complainant, or witnesses as necessary and/or a review any documentation relevant to the complaint.

7. _____

~~3. Both the complainant and employee shall be notified in writing of the final decision regarding the resolution of the complaint.~~

4. Either the complainant or the employee against whom the complaint was made may appeal the decision. ~~A~~ decision by the principal or immediate supervisor may be appealed to the Superintendent or designee, who shall attempt to resolve the complaint to the satisfaction of the ~~parties~~person involved within 30 days. ~~Either Parties should consider and accept the Superintendent or designee's decision as final. However,~~ the complainant or, the employee, ~~or the Superintendent or designee~~ may appeal the Superintendent's decision ~~ask to address the~~ Governing Board regarding the complaint.

~~5. If the decision is appealed to the~~8. Before any Board ~~consideration of a complaint,~~ the Superintendent or designee shall submit to the Board the following information ~~a written report concerning the complaint, including but not limited to:~~

a. The full name of each employee involved

- b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the parties as to the precise nature of the complaint and to allow the parties to prepare a response
- c. A copy of the signed original complaint
- d. A summary of the action taken by the Superintendent or designee and the reasons; ~~together with his/her specific finding~~ that the problem has not been resolved ~~and the reasons~~

~~9. The Board may uphold the Superintendent's decision without hearing the complaint.~~

~~10. All parties to a complaint may be asked to attend a Board meeting in order to clarify the issue and present all available evidence.~~

~~11. A closed session may be held to hear the complaint in accordance with law.~~

~~(cf. 9321 Closed Session Purposes and Agendas)~~

~~(cf. 9323 Meeting Conduct)~~

~~12. The decision of the Board shall be final.~~

~~Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law, Board policy and administrative regulation.~~

~~(cf. 5141.4 Child Abuse Reporting Procedures)~~

Regulation
approved: September 2003
Considered: February 11, 2020

RESCUE UNION SCHOOL DISTRICT
Rescue, California

Rescue Union ESD

Board Policy

Food Service Operations/Cafeteria Fund

BP 3551

Business and Noninstructional Operations

Note: The following policy may be revised to reflect district practice. Pursuant to U.S. Department of Agriculture (USDA) Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) are **mandated** to adopt policy addressing delinquent meal charges; see the section "Meal Sales" below and the accompanying administrative regulation.

Pursuant to 7 CFR 210.9, 210.14, and 220.7, districts participating in the National School Lunch and/or Breakfast program must maintain a nonprofit school food service program. Revenues received through the program may be used for the operation or improvement of the food service program, but not to construct buildings. Revenues also may not be used to purchase land or buildings, unless otherwise approved by the USDA. Authorized expenditures are specified in Education Code 38101 and defined in the California Department of Education's (CDE) California School Accounting Manual.

The Governing Board intends that school food services shall be a self-supporting, nonprofit program. To ensure program quality and increase cost effectiveness, the Superintendent or designee shall centralize and direct the purchasing of foods and supplies, the planning of menus, and the auditing of all food service accounts for the district.

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

(cf. 3311 - Bids)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 5030 - Student Wellness)

Note: The following paragraph is for use by districts that participate in the National School Lunch and/or Breakfast Program and may be adapted for use by other districts. Pursuant to 42 USC 1776 and 7 CFR 210.30, as amended by 84 Fed. Reg. 8247, USDA has established minimum professional standards for food service directors and granted CDE the authority to adopt more flexible standards for districts with average daily attendance of less than 2,500. See CDE's Nutrition Services Division Management Bulletin 10-2019 for information about state hiring standards.

The Superintendent or designee shall ensure that ~~all~~ food service ~~director(s)~~~~personnel~~ possess the ~~required~~ qualifications required by 7 CFR 210.30 and California Department of Education (CDE) standards and ~~receive ongoing professional development related to the effective management and implementation of the district's food service program in accordance with law.~~

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 42 USC 1776, such districts must ensure that food service personnel and other appropriate personnel who conduct or oversee administrative procedures receive training on administrative

practices (i.e., training in application, certification, verification, meal counting, and meal claiming procedures) at least once each year. In addition, all food service personnel are required to receive annual training that (1) is designed to improve the accuracy of approvals for free and reduced-price meals and the identification of reimbursable meals at the point of service and (2) includes modules on nutrition, health and food safety standards and methodologies, and any other appropriate topics as determined by the U.S. Secretary of Agriculture. The CDE provides online training that meets these requirements; see CDE's web site.

At least once each year, food service administrators, other appropriate personnel who conduct or oversee administrative procedures, and other food service personnel shall receive training provided by the CDE, California Department of Education (CDE). (42 USC 1776)

Meal Sales

Note: The following section may be revised by districts that have one or more high-poverty schools that operate under the federal universal meal service provision (42 USC 1759a), which provides breakfast and/or lunch free of charge to all students at the school. For further information, see BP 3553 - Free and Reduced Price Meals.

Meals may be sold to students, district employees, Board members, and employees or members of the fund or association maintaining the cafeteria. (Education Code 38082)

Note: Pursuant to Education Code 38082, the Governing Board may adopt a resolution to authorize serving meals to additional persons other than those listed above. CDE's Nutrition Services Division Management Bulletin 00-111 states that the Board's policy or resolution must specify the means for serving those persons and indicates that using funds from the National School Lunch or Breakfast Program to serve any nonstudent would be contrary to program goals. The following optional paragraph is for districts that have adopted such a resolution and should be revised to reflect district practice.

In addition, meals may be sold to nonstudents, including parents/guardians, volunteers, students' siblings, or other individuals, who are on campus for a legitimate purpose. Any meals served to nonstudents shall not be subsidized by federal or state reimbursements, food service revenues, or U.S. Department of Agriculture (USDA) foods.

Note: Pursuant to Education Code 38084, the district may determine meal prices consistent with the goal of paying the costs of maintaining the cafeterias (exclusive of the costs of housing and equipping cafeterias or other costs determined by Board resolution, which are paid from district funds other than the cafeteria fund, pursuant to Education Code 38100).

Students who meet federal eligibility criteria for the reduced-price meal program cannot be charged more than the amounts listed in 42 USC 1758 and 1773; see AR 3553 - Free and Reduced Price Meals. For information about setting prices for full-price meals, see 42 USC 1760 and CDE's Nutrition Services Division Management Bulletin SNP 12-2018.

Meal prices, as recommended by the Superintendent or designee and approved by the Board, shall be based on the costs of providing food services and consistent with Education Code 38084 and 42 USC 1760. Students who are enrolled in the free or reduced-price meal program shall receive meals free of charge or at a reduced price in accordance with law, Board policy, and administrative regulation.

(cf. 3553 - Free and Reduced Price Meals)

Note: Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are **mandated** to have a written and clearly communicated meal charge policy which includes, but is not limited to, policy on the collection of delinquent meal charge debt. See the accompanying administrative regulation for additional language fulfilling this mandate.

The Superintendent or designee shall establish strategies and procedures for the collection of meal payments, including delinquent meal payments. Such procedures shall conform with [BP/AR 3553 - Free and Reduced Price Meals](#), 2 CFR 200.426, and any applicable CDE guidance. The Superintendent or designee shall clearly communicate these procedures to students and parents/guardians, and shall make this policy and the accompanying administrative regulation available to the public [pursuant to Education Code 49557.5](#).

Note: Education Code 49557.5 requires any district that participates in the National School Lunch and/or Breakfast Program to ensure that students with unpaid meal fees are not shamed or treated differently than other students. For further information, see CDE's Nutrition Services Division Management Bulletin SNP-03-2017.

In addition, Education Code 49557 requires the Board to approve a plan that ensures students eligible to receive free or reduced-price meals are not treated differently from other students, including, but not limited to, assurance that eligible students will not be overtly identified by the use of special tokens, tickets, or any other means. For additional language addressing this requirement, see [BP/AR 3553 - Free and Reduced Price Meals](#).

The Superintendent or designee shall ensure that a student whose parent/guardian has unpaid school meal fees [or a student who is enrolled in the free or reduced-price meal program](#) is not overtly identified [by the use of special tokens, tickets, or other means and is not](#), shamed, treated differently, or served a meal that differs from the meal served to other students. (Education Code [49557](#), 49557.5)

~~Students who are enrolled in the free or reduced-price meal program shall receive meals free of charge or at a reduced price in accordance with law, Board policy, and administrative regulation. Such students shall not be overtly identified or treated differently from other students.~~

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

(cf. ~~0415 - Equity~~ [3553 - Free and Reduced Price Meals](#))

Cafeteria Fund

Note: Pursuant to Education Code 38090, money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of a "cafeteria fund" for the district.

The Superintendent or designee shall establish a cafeteria fund independent of the district's general fund.

The wages, salaries, and benefits of food service employees shall be paid from the cafeteria fund. (Education Code 38103)

Note: The following **optional** paragraph may be revised to reflect district practice. 2 CFR Part 200, Appendix VII and USDA guidance, Indirect Costs: Guidance for State Agencies and School Food Authorities, provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Also see the accompanying administrative regulation.

The Superintendent or designee shall ensure that state and federal funds provided through school meal programs are allocated only for purposes related to the operation or improvement of food services and reasonable and necessary indirect program costs as allowed by law.

(cf. 3230 - Federal Grant Funds)

(cf. 3400 - Management of District Assets/Accounts)

(cf. 3460 - Financial Reports and Accountability)

Contracts with Outside Services

Note: The following section is **optional**. Pursuant to Education Code 45103.5, the district is authorized to contract for consulting services related to food service management. 42 USC 1758, 7 CFR 210.16, and Education Code 45103.5 authorize a district, under specified conditions and with approval of the CDE, to contract with a food service management company to manage its food service operation in one or more of its schools. See the accompanying administrative regulation for related requirements.

With Board approval, the district may enter into a contract for food service consulting services or management services in one or more district schools. (Education Code 45103.5; 42 USC 1758; 7 CFR 210.16)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

Procurement of Foods, Equipment and Supplies

Note: The following two paragraphs reflect requirements for districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 7 CFR 210.21, districts are required to comply with all requirements for purchasing commercial food products served in the school meal programs, including those outlined in the Buy American provision. USDA Memorandum SP 38-2017 clarifies that a district participating in the National School Lunch and/or Breakfast Program or any entity purchasing food on its behalf must, to the maximum extent practicable, purchase domestically grown and processed foods, as defined. According to the Memorandum, a domestic commodity or product is deemed to be "substantially using" domestic agricultural commodities when over 51 percent of the final processed product consists of agricultural commodities produced in the United States.

Limited exceptions to the Buy American requirement are described in USDA Memorandum SP 38-2017. If the district is using one of these exceptions, it must maintain documentation justifying the exception(s).

Pursuant to Education Code 49563, CDE is required to make resources, requirements, and best practices related to the Buy American provision available on its web site and to provide districts with related USDA guidance or regulations as updates are issued.

To the maximum extent practicable, foods purchased for use in school meals by the district or by any entity purchasing food on its behalf shall be domestic commodities or products. *Domestic commodity or product* means an agricultural commodity that is produced in the United States and

a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. (42 USC 1760; 7 CFR 210.21)

A nondomestic food product may be purchased for use in the district's food service program only as a last resort when the product is not produced or manufactured in the United States in sufficient and reasonable quantities of a satisfactory quality, or when competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product. In such cases, the Superintendent or designee shall retain documentation justifying the use of the exception.

Furthermore, the district shall accept a bid or price for an agricultural product grown in California before accepting a bid or price for an agricultural product grown outside the state, if the quality of the California-grown product is comparable and the bid or price does not exceed the lowest bid or price of a product produced outside the state. (Food and Agriculture Code 58595)

Note: Pursuant to Public Contract Code 20111, districts participating in a federally funded child nutrition program, such as the National School Lunch and/or Breakfast Program, must comply with the federal procurement standards of 2 CFR 200.318-200.326 in regard to bid solicitations and awards. Also see BP/AR 3230 - Federal Grant Funds. Districts that do not participate in such a program may revise the following paragraph.

Bid solicitations and awards for purchases of equipment, materials, or supplies in support of the district's child nutrition program, or for contracts awarded pursuant to Public Contract Code 2000, shall be consistent with the federal procurement standards in 2 CFR 200.318-200.326. Awards shall be let to the most responsive and responsible party. Price shall be the primary consideration, but not the only determining factor, in making such an award. (Public Contract Code 20111)

Program Monitoring and Evaluation

The Superintendent or designee shall present to the Board, at least annually, financial reports regarding revenues and expenditures related to the food service program.

Note: The following paragraph is for use by districts that have one or more schools participating in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program. The state monitoring process (the Administrative Review) includes a review of district compliance with requirements for federal meal programs, including a review of resource management in the food service program as provided in the following paragraph. Each district is reviewed at least once every three years. See CDE's nutrition services web site for a current list of documents that may be requested for the review.

During the Administrative Review, CDE will review district policies on charge accounts, alternate meals, unpaid meal charges, and guidelines for continually notifying parents/guardians of these policies.

The Superintendent or designee shall provide all necessary documentation required for the Administrative Review conducted by the CDE to ensure compliance of the district's food service program with federal requirements related to maintenance of the nonprofit school food service

account, meal charges, paid lunch equity, revenue from nonprogram goods, indirect costs, and USDA foods.

(cf. 3555 - Nutrition Program Compliance)

Legal Reference:

EDUCATION CODE

38080-38086.1 Cafeteria, establishment and use

38090-38095 Cafeterias, funds and accounts

38100-38103 Cafeterias, allocation of charges

42646 Alternate payroll procedure

45103.5 Contracts for management consulting services; restrictions

49490-49493 School breakfast and lunch programs

49500-49505 School meals

49550-49564.5 Meals for needy students, especially:

49550.5 Universal breakfast

49554 Contract for services

~~49550-49564.5 Meals for needy students~~

49580-49581 Food recovery program

FOOD AND AGRICULTURE CODE

58595 Preference for California-grown agricultural products

HEALTH AND SAFETY CODE

113700-114437 California Retail Food Code

PUBLIC CONTRACT CODE

2000-2002_ Responsive bidders

20111 Contracts

CODE OF REGULATIONS, TITLE 5

15550-15565 School lunch and breakfast programs

UNITED STATES CODE, TITLE 42

1751-1769j School lunch programs

1771-1791 Child nutrition, including:

1773 School breakfast program

CODE OF FEDERAL REGULATIONS, TITLE 2

200.56 Indirect costs, definition

200.~~317318~~-200.326 Procurement standards

200.400-200.475 Cost principles

200 Appendix VII Indirect cost proposals

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 National School Lunch Program

220.1-220.21 National School Breakfast Program

250.1-250.70 USDA foods

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

Food Distribution Program Administrative Manual

Professional Standards in the SNP and New Hiring Flexibility, NSD Management Bulletin, SNP-10-2019, April 2019

Paid Lunch Equity Requirement and Calculation Tool, NSD Management Bulletin, SNP-12-2018, May 2018

Clarification for the Use of Alternate Meals in the National School Lunch and School Breakfast Programs, and Additional Guidance on the Handling of Unpaid Meal Charges, NSD Management Bulletin, SNP-03-2018, February 2018

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS (continued)

Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018

Unpaid Meal Charges: Local Meal Charge Policies, Clarification on Collection of Delinquent Meal Payments, and Excess Student Account Balances, NSD Management Bulletin, SNP-03-2017, April 2017

~~*Procuring Clarification for the Use of Alternate Meals in the National School Lunch and Monitoring of Food Service Management Contracts School Breakfast Programs, Bad Debt Policies, and the Handling of Unpaid Meal Charges, NSD Management Bulletin, USDA-SNP-1306-2015, May 2015*~~

Cafeteria Funds--Allowable Uses, NSD Management Bulletin, NSD-SNP-07-2013, May 2013

~~*Paid Lunch Equity Requirement, NSD Management Bulletin, USDA-SNP-16-2012, October 2012*~~

Adult and Sibling Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, 00-111, July 2000

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

FAQs About School Meals

~~*Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP 38-2017, June 2017*~~

~~*Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation's Schools, May 2017*~~

Unpaid Meal Charges: Guidance and Q&A, SP 23-2017, March 2017

Indirect Costs: Guidance for State Agencies and School Food Authorities SP 60-2016, September 2016

~~*Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation's Schools, September 2016*~~

Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016

~~*Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP 24-2016, February 2016*~~

Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014

WEB SITES

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>

California School Nutrition Association: <http://www.calsna.org>

U.S. Department of Agriculture, Food and Nutrition Service: <http://www.fns.usda.gov/end>

Policy RESCUE UNION SCHOOL DISTRICT
adopted: May 24, 2005 Rescue, California
revised: January 22, 2019
Considered: February 11, 2020

Rescue Union ESD

Administrative Regulation

Food Service Operations/Cafeteria Fund

AR 3551

Business and Noninstructional Operations

Note: Districts that provide breakfast and/or lunch free of charge to all students (i.e., "universal meal service") at one or more schools pursuant to 42 USC 1759a or Education Code 49550.5 should revise the following administrative regulation accordingly. Also see BP/AR 3553 - Free and Reduced Price Meals.

Payments for Meals

Note: State and federal law (Education Code 49550; 42 USC 1758, 1773) require that all students eligible for free and reduced-price meals receive a reimbursable meal during each school day, which must be the same meal choice offered to noneligible students; see BP/AR 3553 - Free and Reduced Price Meals. California Department of Education (CDE) Nutrition Services Division Management Bulletin SNP-03-2018 clarifies that districts therefore cannot serve an alternate meal (i.e., a meal that is different than the day's advertised meal) to a student eligible for reduced-price meals who does not have the ability to pay or who fails to provide a meal ticket or other medium of exchange on a given day.

In addition to providing meals at no cost to students who are eligible, the district may offer meals at no cost to students who qualify for reduced-price benefits. Districts that choose to eliminate reduced-price meal charges may still claim the meals at the reduced-price rate, but the cost difference between the reduced-price meal and the no-cost meal must be covered by the district's cafeteria fund. For more information, see the U.S. Department of Agriculture's (USDA) Memorandum SP 17-2014.

The following section includes recommendations of the CDE's Nutrition Services Division Management Bulletin and the USDA's "FAQs About School Meals" on the USDA's web site and may be revised to reflect district practice.

With the exception of students who are eligible to receive meals at no cost, students may pay on a per-meal basis or may submit payments in advance. The Superintendent or designee shall maintain a system for accurately recording payments received and tracking meals provided to each student.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

Note: CDE's program monitoring process (the Administrative Review) requires districts to continually notify parents/guardians of district policies regarding meal payments, including charge accounts and alternate meals if applicable. Districts should, at a minimum, inform parents/guardians at the beginning of the school year and on an ongoing basis of district practices for students who have lost or forgotten their meal payment. In addition, districts should set up a system for notifying parents/guardians when a student's meal payment account has a low or negative balance.

According to USDA's Memorandum SP-23-2017, the district's policy on delinquent meal payments must be communicated in writing to all households at the start of each school year and to households transferring to the school during the school year. CDE's Nutrition Services Division Management Bulletin SNP-03-2017 states that, at a minimum, districts should use the methods specified below to communicate the district's meal policy.

At the beginning of the school year, and whenever a student enrolls during the school year, parents/guardians shall be notified of the district's meal payment policies and be encouraged to prepay for meals whenever possible. The Superintendent or designee shall communicate the district's meal payment policies through multiple methods, including, but not limited to:

1. Explaining the meal charge policy within registration materials provided to parents/guardians at the start of the school year
2. Including the policy in print versions of student handbooks, if provided to parents/guardians annually
3. Providing the policy whenever parents/guardians are notified regarding the application process for free and reduced-price meals, such as in the distribution of applications at the start of the school year
4. Posting the policy on the district's web site
5. Establishing a system to notify parents/guardians when a student's meal payment account has a low or negative balance

(cf. 1113 - District and School Web Sites)
(cf. 5145.6 - Parental Notifications)

In order to avoid potential misuse of a student's food service account by someone other than the student in whose name the account has been established, the Superintendent or designee shall verify a student's identity when setting up the account and when charging any meal to the account. The Superintendent or designee shall investigate any claim that a bill does not belong to a student or is inaccurate, ~~shall not require a student to pay a bill that appears to be the result of identity theft~~, and shall open a new account ~~as appropriate with a new account number~~ for a student ~~whose account who~~ appears to ~~have been misused~~ be the subject of identity theft.

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

Note: Pursuant to CDE's Nutrition Services Division Management Bulletin SNP-03-2017, districts must ensure that students who are approved for reduced-price meals receive all meals that are paid for. Any excess payments must be either carried over or refunded to the parents/guardians. The following paragraph extends this provision to also apply to students paying for full-price meals.

Any payments made to a student's food service account shall, if not used within the school year, be carried over into the next school year or be refunded to the student's parents/guardians.

Unpaid and Delinquent Meal Charges

Note: The following section reflects requirements applicable to districts participating in the National School Lunch and/or Breakfast Program and may also be used by districts that do not participate in the program. Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are **mandated** to have a written and clearly communicated meal charge policy which includes, but is not limited to, policy on the collection of delinquent meal charge debt. Such policy may be consistent for all students or vary by grade level. The following section may be revised to reflect district practice.

At its discretion, the district may choose to also notify parents/guardians before the student's meal account reaches a negative balance. The following paragraph may be modified to reflect district practice.

No later than 10 days after a student's school meal account has reached a negative balance, the Superintendent or designee shall so notify the student's parent/guardian. Before sending this notification, the district shall exhaust all options and methods to directly certify the student for free or reduced-price meals. If the district is not able to directly certify the student, the notice to the parent/guardian shall include a paper copy of, or an electronic link to, an application for free or reduced-price meals and the Superintendent or designee shall contact the parent/guardian to encourage submission of the application. (Education Code 49557.5)

The district may attempt to collect unpaid school meal fees from a parent/guardian, but shall not use a debt collector. (Education Code 49557.5)

Note: The following **optional** paragraph reflects CDE guidance in its Nutrition Services Division Management Bulletin SNP-03-2017.

The Superintendent or designee may enter into an agreement with a student's parent/guardian for payment of the student's unpaid meal charge balance over a period of time. As necessary, the repayment plan may allow the unrecovered or delinquent debt to carry over into the next fiscal year.

The district shall not direct any action toward a student to collect unpaid school meal fees. (Education Code 49557.5)

Note: CDE's Nutrition Services Division Management Bulletin SNP-03-2017 requires that the district's unpaid meal policy conform with the cost principles set forth in 2 CFR 200.426, as provided below.

The district's efforts to collect debt shall be consistent with district policies and procedures, California Department of Education (CDE) guidance, and 2 CFR 200.426. The district shall not spend more than the actual debt owed in efforts to recover unpaid meal charges.

Note: Pursuant to CDE's Nutrition Services Division Management Bulletin SNP-03-2017, delinquent debt must be reclassified as bad debt and written off as an operating loss if it is not paid by the end of the fiscal year in which the debt was incurred, unless the district enters into a repayment plan with the parent/guardian prior to the end of the fiscal year or the debt occurs fewer than 90 days prior to the end of the fiscal year. Federal funds are not available to reimburse the district for bad debt. Districts are required to maintain related records in accordance with 7 CFR 210.9 and 210.15.

The Superintendent or designee shall maintain records of the efforts made to collect unpaid meal charges and, if applicable, financial documentation showing when the unpaid meal balance has become an operating loss.

Reimbursement Claims

Note: To streamline administration of state and federal meal programs, CDE has developed an online Child Nutrition Information and Payment System which must be used to submit reimbursement claims and to submit and track the status of applications and USDA food requests.

The Superintendent or designee shall maintain records of the number of meals served each day by school site and by category of free, reduced-price, and full-price meals. The Superintendent or designee shall submit reimbursement claims for school meals to CDE using the online Child Nutrition Information and Payment System.

Donation of Leftover Food

To minimize waste and reduce food insecurity, the district may provide sharing tables where students and staff may return appropriate unused cafeteria food items to be made available to students during the course of a regular school meal time. If food on the sharing tables is not taken by a student, the school cafeteria may donate the food to a food bank or any other nonprofit charitable organization. (Health and Safety Code 114079)

(cf. 3510 - Green School Operations)

Food that may be donated includes prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment. The preparation, safety, and donation of food shall be consistent with Health and Safety Code 113980. (Health and Safety Code 114079)

Cafeteria Fund

Note: Education Code 38093 authorizes the Governing Board to establish one or more cafeteria revolving accounts to be treated as revolving cash accounts of the cafeteria fund.

All proceeds from food sales and other services offered by the cafeteria shall be deposited in the cafeteria fund as provided by law. The income and expenditures of any cafeteria revolving account established by the Governing Board shall be recorded as income and expenditures of the cafeteria fund. (Education Code 38090, ~~38093~~38094)

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

Note: Education Code 38101, as amended by AB 3043 (Ch. 593, Statutes of 2018), permits a district, with approval from CDE, to utilize cafeteria funds to pay for the purchase of a mobile food facility. However, if the

district uses federal reimbursements from any of the federal child nutrition programs for such purchase, the mobile food facility shall only be used to support the administration of those federal programs. Mobile food facilities used for any purposes other than to support the administration of federal child nutrition programs shall not be purchased with cafeteria funds.

The cafeteria fund shall be used only for those expenditures authorized by the Board as necessary for the operation of school cafeterias in accordance with Education Code 38100-38103, 2 CFR Part 200 Appendix VII, and the California School Accounting Manual.

Any charges to, or transfers from, a food service program shall be dated and accompanied by a written explanation of the expenditure's purpose and basis. (Education Code 38101)

(cf. 3110 - Transfer of Funds)

Note: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200 Appendix VII and USDA guidance SP 60-2016, Indirect Costs: Guidance for State Agencies and School Food Authorities, provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Indirect costs are those that are incurred for the benefit of multiple programs or objectives and typically support administrative overhead functions (e.g., accounting, payroll, purchasing, utilities, janitorial services). Each program or objective that benefits from the indirect cost bears a commensurate portion of the cost. Costs may be charged to the nonprofit food service account only if properly documented.

Indirect costs charged to the food service program shall be based on either the district's prior year indirect cost rate as approved by CDE or the statewide average approved indirect cost rate for the second prior fiscal year, whichever is less. (Education Code 38101)

Note: Pursuant to 7 CFR 210.14 and 220.7, net cash resources (i.e., all monies that have accrued to the nonprofit school food service at any given time, less cash payable) should not exceed three months average expenditures. If there is a surplus, then according to USDA guidance, Indirect Costs: Guidance for State Agencies and School Food Authorities, the district must lower the price of paid lunches, improve food quality, or make other improvements to school meal operations. CDE's Nutrition Services Division Management Bulletin NSD-SNP-07-2013 provides that the spending plan developed by the district under such circumstances must be approved by the CDE.

Net cash resources in the nonprofit school food service shall not exceed three months average expenditures. (~~7~~ CFR 210.14, 220.7)

U.S. Department of Agriculture Foods

Note: The following optional section is for use by districts that participate in the National School Lunch Program and receive foods from the USDA pursuant to 42 USC 1755 and 7 CFR 250.1-250.70. CDE is responsible for ordering and distributing USDA foods for use in California schools. Pursuant to 42 USC 1758, USDA must Superintendent or designee shall ensure that foods offered through this program reflect the most recent Dietary Guidelines for Americans.

The district shall provide facilities for the storage and control of foods received through the U.S. Department of Agriculture (USDA) that protect are handled, stored, and distributed in facilities which:—(7 CFR 250.14)

- ~~1. — Are sanitary and free from rodent, bird, insect, and other animal infestation~~
- ~~2. Safeguard foods against theft, spoilage, damage, or and other loss. Such storage facilities shall maintain donated foods in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. The district shall comply with all federal, state, or local requirements related to food safety and health and procedures for responding to a food recall, as applicable, and shall obtain all required health inspections. (7 CFR 250.14)~~
- ~~3. — Maintain foods at proper storage temperatures~~
- ~~4. — Store foods off the floor in a manner to allow for adequate ventilation~~
- ~~5. — Take other protective measures as may be necessary~~

The Superintendent or designee shall maintain inventories of USDA foods in accordance with 7 CFR 250.59 and CDE procedures, and shall ensure that foods are used before their expiration dates.

USDA donated foods shall be used in school lunches as far as practicable. _USDA foods also may be used in other nonprofit food service activities, including, but not limited to, school breakfasts or other meals, a la carte foods sold to students, meals served to adults directly involved in the operation and administration of the food service and to other school staff, and training in nutrition, health, food service, or general home economics instruction for students, provided that any revenues from such activities accrue to the district's nonprofit food service account. (7 CFR 250.59)

Contracts with Outside Services

Note: The following optional section is for use by districts that contract for food service management services pursuant to Education Code 49554, 42 USC 1758, or 7 CFR 210.16 or consulting services pursuant to Education Code 45103.5, and should be modified to reflect the type(s) of contracts the district maintains; see the accompanying Board policy.

The term of any contract for food service management or consulting services shall not exceed one year. Any renewal of the contract or further requests for proposals to provide such services shall be considered on a year-to-year basis. (Education Code 45103.5; 7 CFR 210.16)

Any contract for management of the food service operation shall be approved by CDE and comply with the conditions in Education Code 49554 and 7 CFR 210.16 as applicable. The district shall retain control of the quality, extent, and general nature of its food services, including prices to be charged to students for meals, and shall monitor the food service operation through periodic on-site visits. The district shall not enter into a contract with a food service company to provide a la carte food services only, unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible students. (Education Code 49554; 42 USC 1758; 7 CFR 210.16)

Any contract for consulting services shall not result in the supervision of food service classified staff by the management consultant, nor shall it result in the elimination of any food service classified staff or position or have any adverse effect on the wages, benefits, or other terms and conditions of employment of classified food service staff or positions. All persons providing consulting services shall be subject to applicable employment conditions related to health and safety as listed in Education Code 45103.5. (Education Code 45103.5)

(cf. 3312 - Contracts)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 3600 - Consultants)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

(cf. 4212 - Appointments and Conditions of Employment)

Regulation RESCUE UNION SCHOOL DISTRICT
approved: May 24, 2005 Rescue, California
revised: January 22, 2019
Considered: February 11, 2020

Rescue Union ESD

Board Policy

Dress And Grooming

BP 5132

Students

Note: The following policy may be revised to reflect district practice. Pursuant to Education Code 35183, districts that adopt a school uniform policy are **mandated** to include specified provisions; see section on "Uniforms" below.

The Governing Board believes that appropriate dress and grooming contribute to a productive learning environment. ~~The Board expects students to give proper attention to personal cleanliness and to wear clothing~~ clothes that ~~is~~are suitable for the school activities in which they participate. ~~Students shall~~ ~~Students' clothing must~~ not wear clothing that ~~presents~~present a health or safety hazard or ~~causes a substantial disruption to~~ ~~distraction which would interfere with~~ the educational ~~program~~process.

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

District and school rules pertaining to student attire shall be included in student handbooks, may be posted in school offices and classrooms, and may be periodically reviewed with all students as necessary.

Students shall not be prohibited from dressing in a manner consistent with their gender identity or gender expression or with their religious or cultural observance.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Note: Education Code 212.1, as amended by SB 188 (Ch. 58, Statutes of 2019), defines "race," for purposes of prohibiting discrimination, as including traits historically associated with race, such as hair texture and protective hairstyles.

In addition, the dress code shall not discriminate against students based on hair texture and protective hairstyles, including, but not limited to, braids, locks, and twists. (Education Code 212.1)

Note: While students do not lose their constitutional rights by virtue of entering school grounds, numerous court decisions have found that the First Amendment rights of public school students are not necessarily the same as the rights of adults in other settings and must be viewed in light of the special circumstances of the school environment. In Hazelwood School District v. Kuhlmeier, the U.S. Supreme Court ruled that a school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." For instance, districts may prohibit clothing that is vulgar or causes a substantial disruption to the educational program. Districts may also prohibit clothing that promotes drug use. While districts can regulate clothing that causes a "substantial disruption," districts cannot regulate student clothing simply because the district does not

approve of the message displayed. The district's ability to prohibit "hate speech," including clothing with derogatory or demeaning messages, is unclear. The 9th Circuit Court in Harper v. Poway Unified School District ruled that a school could prohibit a student from wearing a t-shirt with a religious viewpoint against homosexuality, citing a provision in Tinker v. Des Moines which held that schools may prohibit speech that "intrudes upon the rights of other students" and interferes with their learning. However, because the student had graduated, the U.S. Supreme Court vacated the Harper decision on appeal and thus its analysis cannot be relied upon. It is recommended that the district consult legal counsel in the development of this policy and whenever it has questions about the appropriate enforcement of this policy based on student expression.

The principal or designee is authorized to enforce this policy and shall inform any student who does not reasonably conform to the dress code. The dress code shall not be enforced in a manner that discriminates against a particular viewpoint or results in a disproportionate application of the dress code based on students' gender, sexual orientation, race, ethnicity, household income, or body type or size.

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

(cf. 0415 - Equity)

(cf. 5145.2 - Freedom of Speech/Expression)

School administrators, teachers, ~~Students~~ and ~~other staff~~ ~~parents/guardians~~ shall be notified of appropriate and equitable enforcement of the ~~informed about~~ dress code.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

~~When practical, students and grooming standards at the beginning of the school year and whenever these standards are revised. A student who violates these standards shall not be directed~~ subject to correct a dress code violation during instructional time or in front of other students.

Repeated violations or refusal to comply with the district's dress code may result in appropriate disciplinary action.

(cf. 5144 - Discipline)

Gang-Related Apparel

Note: Education Code 35183 authorizes the Governing Board to approve a site-initiated plan that prohibits the school's students from wearing gang-related apparel. The definition of "gang-related apparel" must be limited to apparel that reasonably could be determined to threaten the health and safety of the school environment, and the Board's approval must be based on a determination the policy is necessary for the health and safety of the school environment. In Marvin H. Jeglin et al v. San Jacinto Unified School District et al, a federal district court held that in order to justify a gang-related dress code, there must be evidence of a gang presence at a school and actual or threatened disruption or material interference with school activity. Education Code 32282 specifies that for the purpose of establishing a schoolwide dress code, gang-related apparel shall not be considered a protected form of speech pursuant to Education Code 48950.

District policy should not include a districtwide prohibition against wearing gang-related apparel. Pursuant to Education Code 35183, such a dress code must be initiated at the school-site level and apply only to the school where it is initiated.

The principal, staff, and parents/guardians at a school may establish a reasonable dress code that prohibits students from wearing gang-related apparel when there is evidence of a gang presence that disrupts or threatens to disrupt the school's activities. ~~Such a proposed dress code shall~~ may be included as part of the school safety plan and must be presented to the Board, ~~which for approval. The Board~~ shall approve the plan upon determining that it is necessary to protect the health and safety of the school environment. The dress code policy may be included in the school's comprehensive safety plan. (Education Code 35183)~~school's students.~~

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5136 - Gangs)

When determining specific items of clothing that may be defined as gang apparel, the school shall ensure that the determination is free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics.

Uniforms

Note: In Jacobs v. Clark County School District, the 9th Circuit Court of Appeals held that a district policy requiring students to wear school uniforms did not violate students' First Amendment right to freedom of speech or expression, as such policies are viewpoint-neutral and content-neutral and not intended to suppress the expression of particular ideas.

Pursuant to Education Code 35183, the Board may approve a school-initiated plan that requires a school's students to wear uniforms when the Board determines that the policy is necessary for the health and safety of the school environment.

The Board may approve a school-initiated dress code requiring students at the school to wear a school uniform whenever the Board determines that such a dress code will promote student achievement, a positive school climate, and/or student safety.

Note: If the Board adopts a dress code policy requiring uniforms for any school, Education Code 35183 requires that the Board provide a method whereby parents/guardians may choose to have their children exempted from the adopted school uniform policy. Education Code 35183 mandates that the Board policy include a statement that such students shall not be penalized academically, otherwise discriminated against, or denied attendance to school.

The Superintendent or designee shall establish procedures whereby parents/guardians may choose to have their children exempted from the school uniform policy. Students shall not be penalized academically, otherwise discriminated against, or denied attendance to school if their parents/guardians so decide. (Education Code 35183)

The Superintendent or designee shall ensure that resources are identified to assist economically disadvantaged students in obtaining uniforms. (Education Code 35183)

Legal Reference:

EDUCATION CODE

212.1 Nondiscrimination based on race or ethnicity

220 Nondiscrimination

32281 School safety plans

35183 School dress codes; uniforms

35183.5 Sun-protective clothing
48907 Student exercise of free expression
49066 Grades; effect of physical education class apparel

~~CODE OF REGULATIONS, TITLE 5~~

~~302 Pupils to be neat and clean on entering school~~

COURT DECISIONS

Jacobs v. Clark County School District (2008) 26 F. 3d 419

Harper v. Poway Unified School District (2006) 445 App. 3d 166

Marvin H. Jeglin et al v. San Jacinto Unified School District et al; (C.D. Cal. 1993)
827 F.Supp. 1459

Arcadia Unified School District v. California Department of Education; (1992) 2 Cal. 4th 251

Hazelwood School District v. Kuhlmeier (1988) 108 S. Ct. 562

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

Tinker v. Des Moines Independent Community School District (1969) 393 U.S. 503

Policy
adopted: April 2002
Considered: February 11, 2020

RESCUE UNION SCHOOL DISTRICT
Rescue, California

Rescue Union ESD

Administrative Regulation

Dress And Grooming

AR 5132
Students

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

In cooperation with teachers, students, and parents/guardians, the principal or designee ~~may~~ shall establish ~~and regularly review~~ school rules ~~which reflect Board policy~~ governing student dress and grooming ~~which are consistent with law, Board policy, and administrative regulations.~~ ~~These.~~ ~~Each~~ school shall allow students to wear sun protective clothing, including but not limited to hats, for outdoor use during the school day. (Education Code 35183.5)

dress codes shall be regularly reviewed.

(cf. 0420 - School Plans/Site Councils)

Note: **Optional** items #1-4 below may be revised to reflect district practice.

The following guidelines shall apply to all regular school activities:

~~1. Hair shall be clean and neatly groomed. Aerosol cans of hair color are not permitted at school. No spray on color that would drip when wet is allowed at school.~~

~~2. Shoes must be worn at all times. For safety purposes sandals should be held in place with heel straps.~~

~~3. Clothing, jewelry, and personal items shall be free of writing, pictures, or any other insignia which isare crude, vulgar, lewd, obscene, profane, or sexually suggestive, or which promotes advocate racial, ethnic or religious prejudice or the use of drugs, alcohol, drugs, or tobacco, or other illegal activity.~~

~~4.~~

~~2. Appropriate shoes must be worn at all times.~~

~~3. Hats, caps, and other head coverings shall not be worn indoors. Exceptions may be provided for religious practice or during special event activities as designated by the school site principal.~~

~~5. All clothing shall be within the bounds of decency and good taste as appropriate for school. Garments~~

~~4. Clothes shall be sufficient to conceal undergarments. See at all times.~~

- a. ~~Dress length shall be within the bounds of decency and good taste and no shorter than mid thigh.~~
- b. ~~No bare midriffs. No low-cut or revealing tops. No "off the shoulder" blouses.~~
- c. ~~No garment may be worn that is cut-off, ragged or torn.~~
- d. ~~No "see-through tops and bare abdomens are prohibited" or "fish-net" type blouses or shirt may be worn. All students must wear shirts at all times.~~

~~The dress code shall be modified as appropriate to accommodate a student's religious or cultural observance, health condition, or other circumstance deemed necessary by the principal or designee. In addition, the principal or designee Coaches and teachers may impose more stringent dress requirements to accommodate the special needs of special school activities, physical education certain sports and/or classes.~~

~~Wearing of Shorts~~

~~Students, athletic will be allowed to wear Bermuda shorts, walking shorts or shorts within the following guidelines:~~

- ~~1. Shorts must be hemmed and appropriate for school activities, and other extracurricular and co-curricular activities.~~
- ~~2. The length of the shorts must be within the bounds of decency and in good taste as appropriate for school. Short shorts are absolutely not to be worn at school.~~

~~Shorts that do not meet these criteria are not allowed. Tops worn with shorts must adhere to the guidelines above.~~

- ~~(cf. 3260 - Fees and Charges)~~
- ~~(cf. 6142.7 - Physical Education and Activity)~~
- ~~(cf. 6145 - Extracurricular and Co-curricular Activities)~~
- ~~(cf. 6145.145.2 - Athletic Competition Freedom of Speech Expression)~~

No grade of a student participating in a physical education class shall be adversely affected if the student does not wear standardized physical education apparel because of circumstances beyond the student's control. (Education Code 49066)

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

Students shall be allowed to wear sun-protective clothing, including but not limited to hats, for outdoor use during the school day. (Education Code 35183.5)

- ~~(cf. 5141.7 - Sun Safety)~~

~~The principal, staff students and parent/guardians at each school may establish reasonable dress~~

~~and grooming regulations for times when students are engaged in extracurricular or other special school activities.~~

Gang-Related Apparel

Note: The following section is for use by districts in which individual schools have adopted a dress code prohibiting gang-related apparel pursuant to Education Code 35183. It is recommended that districts consult legal counsel when developing administrative regulations related to gang apparel.

At individual schools that have a dress code prohibiting gang-related apparel at school or school activities, the principal, staff, and parents/guardians participating in the development of the school safety plan shall define "gang-related apparel" and shall limit this definition to apparel that reasonably could be determined to threaten the health and safety of the school environment if it were worn or displayed on a school campus. (Education Code ~~3228235294.1~~)

Because gang-related symbols are constantly changing, ~~definitions~~ definition of gang-related apparel shall be reviewed at least once each semester and updated whenever related information is received. As necessary, the school shall collaborate with law enforcement agencies to update definitions of gang-related apparel.

Regulation
approved: April 2002
revised: April 12, 2016
Considered: February 11, 2020

RESCUE UNION SCHOOL DISTRICT
Rescue, California

Rescue Union ESD

Board Policy

Sexual Health And HIV/AIDS Prevention Instruction

BP 6142.1

Instruction

Note: The following policy is for use by districts that offer any of grades 7-12. Education Code 51934 requires districts to provide comprehensive sexual health education and HIV prevention education to students in grades 7-12. See the accompanying administrative regulation for definitions and program requirements.

Education Code 51934 also authorizes, but does not require, districts to provide age-appropriate comprehensive sexual health education prior to grade 7 on any of the topics specified in Education Code 51934. Districts that choose to provide such instruction prior to grade 7 may revise the following policy and administrative regulation accordingly.

Sexual health education taught at any grade level must comply with the requirements of Education Code 51933.

The Governing Board desires to provide a well-planned, integrated sequence of medically accurate and inclusive instruction on comprehensive sexual health and human immunodeficiency virus (HIV) prevention. The district's educational program shall address the goals of the California Healthy Youth Act pursuant to Education Code 51930-51939, including providing students with the knowledge and skills necessary to protect them from risks presented by sexually transmitted infections, unintended pregnancy, sexual harassment, sexual assault, sexual abuse, and human trafficking and to have healthy, positive, and safe relationships and behaviors. The district's educational program shall also promote students' understanding of sexuality as a normal part of human development and their development of healthy attitudes and behaviors concerning adolescent growth and development, body image, gender, gender identity, gender expression, sexual orientation, relationships, marriage, and family.

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

~~(cf. 5030 - Student Wellness 6142.8 - Comprehensive Health Education)~~

~~(cf. 5141.22 - Infectious Diseases)~~

~~(cf. 5141.25 - Availability of Condoms)~~

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

~~(cf. 6142.8 - Comprehensive Health Education)~~

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

~~(cf. 5141.22 – Infectious Diseases)~~

~~(cf. 5141.23 – Infectious Disease Prevention)~~

~~(cf. 5141.25 – Availability of Condoms)~~

~~(cf. 5146 – Married/Pregnant/Parenting Students)~~

~~(cf. 6142.8 – Comprehensive Health Education)~~

Note: The following paragraph may be revised to reflect the grade levels offered by the district.

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

~~(cf. 6143 - Courses of Study)~~

Note: Education Code 49381, as added by SB 1104 (Ch. 848, Statutes of 2018), requires districts that offer any of grades 6-12 to identify the most appropriate methods of informing parents/guardians of human trafficking prevention resources, and to provide such information through the identified methods by January 1, 2020. The following paragraph is for use by districts that maintain grades 6-12 and may be modified for districts that serve students in grades K-5.

~~and collected for review and evaluation by the committee. The program coordinator~~
The Superintendent or designee shall identify appropriate methods for informing the school community about subjects related to verify that all materials are consistent with related district policy. The Board shall consider the advisory committee's recommendations when approving the district's comprehensive sexual health and HIV prevention education. The Superintendent or designee shall use such identified methods to inform parents/guardians of students in grades 6-12 about human trafficking prevention resources, as required pursuant to Education Code 49381 program.—

~~(cf. 1220 – Citizen Advisory Committees)~~

Parent/Guardian Consent Notification and Excuse

Note: Education Code 51938 requires districts to notify parents/guardians about instruction in sexual health and HIV prevention and of their right to request that their child not receive the instruction. See the accompanying administrative regulation for details of the required notice.

Pursuant to Education Code 51938, districts must use a "passive consent" or "opt-out" process regarding sexual health and HIV prevention education and any assessments related to that instruction. Thus, each student must receive the instruction unless the parent/guardian notifies the district in writing that the student should not receive the instruction.

In addition, Education Code 51938 requires districts to use a passive consent or opt-out process to obtain parent/guardian consent when administering an anonymous, voluntary, and confidential research and evaluation

tool to measure students' health behaviors and risks, including a test, questionnaire, or survey containing age-appropriate questions about sexual attitudes or practices. However, for any such research and evaluation tool administered prior to grade 7, Education Code 51513 requires that parents/guardians give permission before the instrument is administered to their child (i.e., "active consent").

20 USC 1232h mandates districts to adopt a policy regarding the district's arrangements to protect student privacy when such a survey is administered to any student, regardless of their grade level. See BP/AR 5022 - Student and Family Privacy Rights for language implementing this requirement.

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

~~1. —That written and audiovisual educational materials to be used in comprehensive sexual health and HIV/AIDS prevention education are available for inspection~~

~~2. —Whether the comprehensive sexual health or HIV/AIDS prevention education will be taught by district personnel or outside consultants~~

~~3. —That parents/guardians have a right to request a copy of Education Code 51930–51939~~

~~4. —That parents/guardians may request in writing that their child not receive comprehensive sexual health or HIV/AIDS prevention education~~

~~(cf. 5145.6—Parental Notifications)~~

~~The be excused district may administer to students in grades 7–12 anonymous, voluntary, and confidential research and evaluation instruments, including tests and surveys, containing age-appropriate questions about their attitudes or practices relating to sex. Prior to administering such a research and evaluation instrument, parents/guardians shall be provided written notice of the administration. Parents/guardians shall be given an opportunity to review the research instrument and to request in writing that their child not participate.—(Education Code 51938, 51939)~~

~~Parents/guardians shall be asked to sign and return to the school an acknowledgment that they have received the notification.—~~

~~(cf. 5022—Student and Family Privacy Rights)~~

~~Upon written request, a parent/guardian may excuse his/her child from participating in comprehensive sexual health and/or HIV/AIDS prevention education, or from participating in questionnaires or surveys regarding health behaviors and risks. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51938, 51939)~~

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

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

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

33544 Inclusion of sexual harassment and violence in health curriculum framework

48980 Notice at beginning of term

49381 Human trafficking prevention resources

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51225.36 in sexual harassment and violence; districts that require health education for graduation

51240 Excuse from instruction due to religious beliefs

51513 Test, questionnaire, survey, or examination ~~Materials~~ containing questions about beliefs or practices

51930-51939 California Healthy Youth ~~Comprehensive Sexual Health and HIV/AIDS Prevention Education Act~~

51950 Abuse, sexual abuse, and human trafficking prevention education

67386 Student safety; affirmative consent standard

HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

UNITED STATES CODE, TITLE 20

1232h Protection of student rights ~~Student Rights~~

7906 Sex education requirements and prohibited use of funds

Management Resources:

CSBA ~~CDE~~ PUBLICATIONS

Promoting Healthy Relationships for Adolescents: Board Policy Considerations, Governance Brief, August 2014

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008

Health Framework for California Public Schools: Kindergarten through Grade 12, 2003

HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS

California LGBTQ Youth Report, January 2019

WEB SITES

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

California Department of Education, Sex Education and HIV/AIDS/STD Instruction:
<http://www.cde.ca.gov/ls/he/set/>

California Department of Public Health: ~~Services~~: <http://www.dhs.ca.gov>

~~California Department of Social Services~~: <http://www.cdph.ca/dss-cahwnet.gov>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Partnership to End Domestic Violence: <http://www.cpedv.org>

California Safe Schools Coalition: <http://www.casafeschools.org>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Human Rights Campaign: <https://www.hrc.org/hrc-story/hrc-foundation>

U.S. Food and Drug Administration: <http://www.fda.gov>

Policy RESCUE UNION SCHOOL DISTRICT
adopted: November 2004 Rescue, California
Considered: February 11, 2020

Rescue Union ESD

Administrative Regulation

Sexual Health And HIV/AIDS Prevention Instruction

AR 6142.1

Instruction

Comprehensive

Note: The following administrative regulation is for use by districts that maintain any of grades 7-12 Education Code 51934 requires districts to provide comprehensive sexual health education and HIV prevention education to students in grades 7-12.

If the district chooses to provide age-appropriate sexual health education prior to grade 7 as authorized by Education Code 51934, it may revise the following administrative regulation accordingly.

Definitions following criteria: sexual health education means education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections. (Education Code 51931, ~~51933~~)

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

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

~~1. Instruction and materials shall be age appropriate.~~

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

~~2. All factual information presented shall be medically accurate and objective.~~

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

General Criteria for 3. Instruction and Materials

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

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

(cf. 6174 - Education for English Learners)

5. Are available on an equal basis to a student who is an English learner, consistent with the existing curriculum and alternative options for an English learner student, as otherwise provided in the Education Code:

~~(cf. 6. Are 6174 - Education for English Language Learners)~~

- ~~4. Instruction and materials shall be appropriate for use with students of all races, genders, sexual orientations, ethnic and cultural backgrounds, and students with disabilities.~~
- ~~5. Instruction and materials shall be accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats, and auxiliary aids.~~

(cf. 6159 - Individualized Education Program)

~~6. Instruction and materials shall encourage a student to communicate with his/her parents/guardians about human sexuality.—~~

~~7. Instruction and materials shall teach respect for marriage and committed relationships.~~

~~8. Instruction and materials may not teach or promote religious doctrine.~~

~~9. Do Instruction and materials may not reflect or promote bias against any person in on the basis of any category protected categories of discrimination pursuant to by Education Code 220-~~

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

(cf. 1312.3 - Uniform Complaint Procedures)

8. Affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same-sex relationships

9. Teach students about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes

10. Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so

11. Teach the value of and prepare students to have and maintain committed relationships such as marriage

12. Provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, harassment, and intimidation

(cf. 5145.3 - Nondiscrimination/Harassment)

~~10. Beginning in grade 7, instruction and materials shall teach that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy, teach that abstinence from sexual activity is the only certain way to prevent sexually transmitted diseases, and provide information about the value of abstinence while also providing medically accurate information on other methods of preventing pregnancy and sexually transmitted diseases.—~~

~~11. Beginning in grade 7, instruction and materials shall provide information about sexually transmitted diseases.— This instruction shall include how sexually transmitted diseases are and are not transmitted, the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods of reducing the risk of contracting sexually transmitted diseases, and information on local resources for testing and medical care for sexually transmitted diseases.—~~

~~12. Beginning in grade 7, instruction and materials shall provide information about the effectiveness and safety of all FDA approved contraceptive methods in preventing pregnancy,—~~

~~including, but not limited to, emergency contraception.~~

~~(cf. 5141.25 Availability of Condoms)~~

~~13.~~

~~13. Provide~~Beginning in grade 7, instruction and materials shall provide students with knowledge and skills for making and implementing healthy~~responsible~~ decisions about sexuality.

~~(cf. 5146 Married/Pregnant/Parenting Students)~~

~~, including communication~~14.Beginning in grade 7, instruction and materials shall provide students with information on the law on surrendering physical custody of a minor child 72 hours or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5.

~~(cf. 6143 Courses of Study)~~

HIV/AIDS Prevention Instruction

~~HIV/AIDS prevention instruction shall be offered at least once in junior high or middle school and once in high school by instructors trained in the appropriate courses. Instruction shall accurately reflect the latest information and recommendations from the United States Surgeon General, the federal Centers for Disease Control and Prevention, and the National Academy of Sciences and shall include: (Education Code 51934)~~

- ~~1. Information on the nature of HIV/AIDS and its effects on the human body.~~
- ~~2. Information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection.~~
- ~~3. Discussion of methods to reduce the risk of HIV infection, including:
 - ~~a. Emphasis that sexual abstinence, monogamy, the avoidance of multiple sexual partners and abstinence from intravenous drug use are the most effective means for HIV/AIDS prevention.~~
 - ~~b. Statistics based upon the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing sexually transmitted HIV infection.~~
 - ~~c. Information on other methods that may reduce the risk of HIV transmission from intravenous drug use.~~~~
- ~~4. Discussion of the public health issues associated with HIV/AIDS.~~
- ~~5. Information on local resources for HIV testing and medical care.~~
- ~~6. Development of refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities.~~

14. Do not teach or promote religious doctrine

Components of Sexual Health and HIV Prevention Education

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

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

abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy

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

(cf. 5141.25 - Availability of Condoms)

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

4. Information about the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the Centers for Disease Control and Prevention
5. Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing
6. Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others
7. Discussion about ~~social/societal~~ views on HIV and ~~/AIDS~~, including addressing ~~unfounded~~ stereotypes and myths regarding ~~HIV and AIDS and people living~~persons with HIV

~~/AIDS.~~—This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV,

and testing is the only way to know if one is HIV-positive~~compassion for persons living with HIV/AIDS.~~

8. Information about local resources, how to access local resources, and students' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence
9. Information about the effectiveness and safety of FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to:
 - a. Parenting, adoption, and abortion
 - b. Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5
 - c. The importance of prenatal care

Note: Pursuant to Education Code 51934, comprehensive sexual health education must include information about sexual harassment, sexual assault, sexual abuse, and human trafficking. AB 1861 (Ch. 807, Statutes of 2018) amended Education Code 51934 to require that the information on human trafficking include the components specified in items #10a and b below.

10. Information about sexual harassment, sexual assault, sexual abuse, and human trafficking, including:
 - a. Information on the prevalence and nature of human trafficking, strategies to reduce the risk of human trafficking, techniques to set healthy boundaries, and how to safely seek assistance if there is a suspicion of trafficking
 - b. Information on how social media and mobile device applications are used for human trafficking

Note: Education Code 51934 requires that the comprehensive sexual health instruction include information about adolescent relationship abuse, as provided below. For further information about adolescent dating abuse, see CSBA's governance brief Promoting Healthy Relationships for Adolescents: Board Policy Considerations.

11. Information about adolescent relationship abuse and intimate partner violence, including the early warning signs of each

Note: Education Code 51934, as amended by AB 1868 (Ch. 428, Statutes of 2018), authorizes districts to provide the instruction described below. The following paragraph may be revised to reflect district practice.

The district's comprehensive sexual health education and HIV prevention education shall include instruction regarding the potential risks and consequences of creating and sharing suggestive or sexually explicit materials through cell phones, social networking web sites, computer networks, or other digital media. (Education Code 51934)

Professional Development

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

In-Service Training and Use of Consultants

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

(cf. 4131 - Staff Development)

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

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

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

The Superintendent or designee shall periodically provide continuing education that enables district personnel to learn about new developments in the understanding of abuse, including sexual abuse, and human trafficking and current prevention efforts and methods. Such education may include early identification of abuse, including sexual abuse, and human trafficking of students and minors. (Education Code 51950)

Use of Consultants or Guest Speakers

Note: Pursuant to Education Code 51933, 51934, and 51936, the district's comprehensive sexual health and HIV prevention education may be taught by outside consultants or delivered by guest speakers at an assembly. Any such instruction must comply with the same requirements as instruction provided by the district and in accordance with Education Code 51930-51939. If the district elects to use outside consultants or guest speakers,

parents/guardians must be provided additional notice about the speaker and the speaker's organization; see item #4 in the section below entitled "Parent/Guardian Notification."

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

(cf. 6145.8 - Assemblies and Special Events)

Parent/Guardian Notification

Note: Education Code 51938 requires the district to provide parents/guardians the following notification. A sample notification letter is available on the California Department of Education's web site.

In addition, Education Code 49381, as added by SB 1104 (Ch. 848, Statutes of 2018), requires districts that offer any of grades 6-12 to identify the most appropriate methods of informing parents/guardians of human trafficking prevention resources, and to provide such information through the identified methods by January 1, 2020; see the accompanying Board policy. Districts that combine such information with the annual notification required pursuant to Education Code 51938 may revise the following section accordingly.

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

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

b. The name of the organization or affiliation of each guest speaker

c. Information stating the right of the parent/guardian to request a copy of Education Code 51933, 51934, and 51938

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

(cf. 5145.6 - Parental Notifications)

Nonapplicability to Certain Instruction or Materials

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

1. A description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, if the textbook does not include other elements of comprehensive sexual health education or HIV prevention education as defined in Education Code 51931

(cf. 6142.93 - Science Instruction)

2. Instruction, materials, presentations, or programming that discusses gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and does not discuss human reproductive organs and their functions

Regulation RESCUE UNION SCHOOL DISTRICT
approved: November 2004 Rescue, California
Considered: February 11, 2020

Rescue Union ESD

Administrative Regulation

Athletic Competition

AR 6145.2
Instruction

Nondiscrimination and Equivalent Opportunities in the Athletic Program

Note: The following section reflects pertinent provisions of state and federal law regarding nondiscrimination (Education Code 200-262.4; 5 CCR 4900-4965; Title IX, 20 USC 1681-1688). The Office for Civil Rights (OCR) in the U.S. Department of Education oversees complaints regarding violations of Title IX.

~~No student shall~~~~No person shall on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color or mental or physical disability~~ be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic, intramural, or club athletics on the basis of any actual or perceived characteristic specified in law and BP 0410 - Nondiscrimination in District Programs and Activities. (Education Code 220, 221.5, 230 5 CCR 4920, 34 CFR 106.41 ~~or club athletics. (5 CCR 4920)~~

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.3 - Nondiscrimination/Harassment)

Note: 5 CCR 4921 and 34 CFR 106.41 authorize the establishment of separate teams for males and females where the selection of teams is based on competitive skills. 34 CFR 106.41 also authorizes single-sex teams for contact sports, as defined. Because state regulations do not address single-sex teams for contact sports, districts should consult legal counsel prior to establishing any such single-sex team for a contact sport for which selection is not based on competitive skills.

The Superintendent or designee may provide single-sex teams ~~when~~where selection for the teams is based on competitive skills. (5 CCR 4921; 34 CFR 106.41)

Note: Pursuant to Education Code 221.5, a district is required to permit a transgender student to participate in sex-segregated school programs and activities, including athletic teams and competitions, consistent with the student's gender identity, regardless of the gender listed in the student's records; see BP/AR 5145.3 - Nondiscrimination/Harassment. The California Interscholastic Federation's (CIF) bylaws and Guidelines for Gender Identity Participation contain procedures for addressing student complaints regarding gender identity-based participation in interscholastic sports. Also see CSBA's Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Discrimination.

Each student shall be allowed to participate in any single-sex athletic program or activity consistent with the student's gender identity, irrespective of the gender listed on the student's records, for which the student is otherwise eligible to participate. (Education Code 221.5)

(cf. 5125 - Student Records)

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

Note: 5 CCR 4922 and 34 CFR 106.41, as reflected in items #1-11 below, list factors that districts must consider when ~~When~~ determining whether equivalent opportunities are being provided. CIF's A Guide to Equity in Athletics suggests actions that districts can take for each of the factors to help the district meet its equivalence goals. Any district with questions about equivalent athletic opportunities for its students should consult legal counsel.

The Superintendent or designee shall ensure that equivalent opportunities are available to both sexes in athletic programs ~~by considering, the Superintendent or designee shall consider~~, among other factors: (5 CCR 4922; 34 CFR 106.41)

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

Note: Education Code 230 provides the following three-part test to determine if a district has effectively accommodated the interests and abilities of both sexes in athletics. This test is the same three-part test that is used by OCR for helping to determine equivalent opportunities under Title IX.

The athletic program may be found to effectively accommodate the interests and abilities of both sexes using any one of the following tests: (Education Code 230)

Note: CIF's A Guide to Equity in Athletics advises that, in order to meet the criterion specified in item #1a below, the ratio of male/female athletes should be within five percent of the ratio of male/female district enrollment.

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

Note: In evaluating whether there is an unmet interest in a particular sport and sufficient ability to sustain a team in the sport (item #1c below), OCR considers (1) whether an institution uses nondiscriminatory methods of assessment when determining the athletic interests and abilities of its students, (2) whether a viable team for the underrepresented sex was recently eliminated, (3) multiple indicators of interest, (4) multiple indicators of ability, and (5) frequency of conducting assessments. A student survey is one indicator that may be used. A letter issued by OCR in April 2010 provides information that the district might consider in developing its own survey.

In addition, CIF's A Guide to Equity in Athletics provides sample surveys.

- c. Where the members of one sex are underrepresented among interscholastic athletes and the district cannot show a history and continuing practice of program expansion as required in item #1b above, whether the district can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program
2. The provision and maintenance of equipment and supplies
3. Scheduling of games and practice times, selection of the season for a sport, and location of the games and practices
4. Travel and per diem allowances
5. Opportunities to receive coaching and academic tutoring
6. Assignment and compensation of coaches and tutors
7. Provision of locker rooms, practice facilities, and competitive facilities
8. Provision of medical and training facilities and services
9. Provision of housing and dining facilities and services
10. Publicity

Note: 5 CCR 4922 clarifies that unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams shall not by itself constitute a failure to provide equivalent opportunities. However, the provision of necessary funding for teams of both sexes is a factor in the determination, as specified below.

11. Provision of necessary funds

Each school that offers competitive athletics shall, at the end of the school year, post on its school web site, or on the district web site if the school does not have a web site, the following information: (Education Code 221.9)

1. The total enrollment of the school, classified by gender
2. The number of students enrolled at the school who participate in competitive athletics, classified by gender
3. The number of boys' and girls' teams, classified by sport and by competition level

(cf. 1113 - District and School Web Sites)

The data reported for items #1-3 above shall reflect the total number of players on a team roster on the official first day of competition. The materials used to compile this information shall be retained by the school for at least three years after the information is posted on the web site. (Education Code 221.9)

(cf. 3580 - District Records)

Concussions and Head Injuries

Note: Education Code 49475 requires districts to distribute information on concussions and head injuries to student athletes and their parents/guardians. The district may use fact sheets developed by the Centers for Disease Control and Prevention (CDC), available on CIF's web site, or other resources to develop the information sheet.

The requirements of Education Code 49475 apply to any district that offers an athletic program at any grade level and for any sport. These requirements do not apply to students engaging in an athletic activity during the regular school day or as part of a physical education course.

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

(cf. 5145.6 - Parental Notifications)

Note: Education Code 49032 requires that each high school coach complete an education program that includes, but is not limited to, a basic understanding of the signs and symptoms of concussions and appropriate response to them. Free online courses are available through CIF's web site. Also see AR 4127/4227/4327 - Temporary Athletic Team Coaches.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding concussion symptoms, prevention, and appropriate response. (Education Code 35179.1, 49032)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

Note: Education Code 49475 requires that a student at any grade level engaged in an athletic program apart from the regular school day or physical education course who is suspected of sustaining a concussion be immediately removed from the athletic activity and not be allowed to return until a health care provider provides written clearance. CDC's web site includes an Acute Concussion Evaluation form which may be used to provide injured students and their parents/guardians with information about monitoring symptoms and the health care provider's recommendations regarding returning to daily activities, school, and sports. See CIF's web site for additional information regarding concussions.

If a student athlete is suspected of sustaining a concussion or head injury in an athletic activity, the student shall be immediately removed from the activity for the remainder of the day. The student shall not be permitted to return to the activity until the student is evaluated by a licensed health care provider trained in the management of concussions and receives the health care provider's written clearance to return to the activity. If the health care provider determines that the student sustained a concussion or a head injury, the student shall also complete a graduated

return-to-play protocol of no less than seven days in duration under the supervision of a licensed health care provider. (Education Code 49475)

Note: The following paragraph is for use by districts that offer a football program and may be revised to reflect the grade levels offered by the district.

A middle school or high school football team shall not hold a full-contact practice during the off-season and shall not conduct more than two full-contact practices per week during the preseason and regular season (from 30 days before the commencement of the regular season until the completion of the final interscholastic football game of that season). In addition, the full-contact portion of a practice shall not exceed 90 minutes in any single day. For these purposes, *full-contact practice* means a practice where drills or live action is conducted that involves collisions at game speed, where players execute tackles and other activity that is typical of an actual tackle football game. (Education Code 35179.5)

Heat Illness

Note: Pursuant to Education Code 35179.1, the district or CIF-developed coaching education program required by Education Code 49032 must include training on the signs and symptoms of, and the appropriate response to, heat illness. The National Federation of State High Schools offers a free online course, available on CIF's web site, that fulfills these requirements.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the signs and symptoms of, and the appropriate response to, heat illness, including heat cramps, heat syncope, heat exhaustion, and exertional heat stroke. (Education Code 35179.1, 49032)

Note: The following optional paragraph reflects recommendations in CSBA's and CIF's joint publication Preventing Catastrophic Heat Illness, and may be expanded to include additional district strategies.

To assist in the prevention of heat illness, coaches and/or athletic trainers shall gradually increase the intensity and duration of exercise to acclimate student athletes to practice in the heat, provide adequate rest breaks, make water available during all athletic activities, and alter practice plans in extreme environmental conditions.

Sudden Cardiac Arrest

Note: Education Code 33479.3 requires that student athletes and their parents/guardians receive information on the nature and warning signs of sudden cardiac arrest, as provided below. This information is available from CIF or, if the athletic activity is not governed by CIF, on the California Department of Education's (CDE) web site. In addition, Education Code 33479.2 encourages districts to post on their web sites the information provided on CDE's web site pertaining to sudden cardiac arrest.

The Superintendent or designee shall distribute the California Interscholastic Federation (CIF) information sheet on sudden cardiac arrest to all student athletes who will be participating in a CIF-governed athletic activity and to their parents/guardians. The student and parent/guardian shall sign and return the information sheet prior to the student's participation in the athletic

activity. If an athletic activity is not covered by CIF, the student and parent/guardian shall, prior to the student's participation in the athletic activity, sign and return an acknowledgement that they have received and reviewed the sudden cardiac arrest information posted on the California Department of Education's web site. (Education Code 33479.2, 33479.3)

Note: Education Code 33479.6 requires the coach of an athletic activity to complete, every two years, a training course related to the nature and warning signs of sudden cardiac arrest. See AR 4127/4227/4327 - Temporary Athletic Team Coaches. Free online courses are available through CIF's web site.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the nature and warning signs of sudden cardiac arrest. (Education Code 33479.6, 33479.7, 35179.1, 49032)

Note: Education Code 33479.5 and CIF bylaws provide for a student's removal from participation in an athletic activity if the student passes out or faints. As defined by Education Code 33479.1, an "athletic activity" includes (1) interscholastic athletics; (2) an athletic contest or competition sponsored by a school, including cheerleading and club-sponsored sports activities; (3) noncompetitive cheerleading sponsored by a school; and (4) practices, interscholastic practices, and scrimmages for all these activities. Pursuant to Education Code 33479.5, this requirement does not apply when a student engages in an athletic activity during the regular school day or as part of a physical education course, unless the activity constitutes a practice, interscholastic practice, or scrimmage. Furthermore, Education Code 33479.5 authorizes, but does not require, the removal of a student from an athletic activity if the student exhibits symptoms of sudden cardiac arrest other than passing out or fainting, as provided below. However, to promote student safety, the district may choose to require its staff to remove from an athletic activity a student who exhibits any symptom of sudden cardiac arrest at any time.

If a student athlete passes out or faints, or is known to have passed out or fainted, while participating in or immediately following participation in an athletic activity, the student shall be removed from participation at that time. If a student exhibits any other symptoms of sudden cardiac arrest, including seizures during exercise, unexplained shortness of breath, chest pains, dizziness, racing heart rate, or extreme fatigue, the student may be removed from participation by a coach or other employee who observes these symptoms. If any such symptoms are observed, notification shall be given to the student's parent/guardian so that the parent/guardian can determine the treatment, if any, the student should seek. A student who has been removed from participation shall not be permitted to return until the student is evaluated and given written clearance to return to participation by a health care provider. (Education Code 33479.2, 33479.5)

Automated External Defibrillators

Note: Pursuant to Education Code 35179.6, a district that offers an interscholastic athletic program is required to make an automated external defibrillator (AED) available to coaches, athletic trainers, and/or other authorized persons at athletic activities or events. Education Code 35179.6 encourages districts to make AEDs available for emergency care or treatment within three to five minutes of sudden cardiac arrest to any person in attendance at an on-campus athletic activity or event. See BP/AR 5141 - Health Care and Emergencies for requirements related to employee notifications and the proper use and maintenance of AEDs.

Education Code 35179.6 clarifies that the district or district employee will not be liable for civil damages resulting from any act or omission in the rendering of emergency care or treatment provided that the employee complies with the requirements of Health and Safety Code 1797.196 and does not act with gross negligence or willful or wanton misconduct by using, attempting to use, or maliciously failing to use an AED to render

emergency care or treatment.

The Superintendent or designee shall acquire at least one automated external defibrillator (AED) for each district school and shall make the AED(s) available to coaches, athletic trainers, and/or other authorized persons at athletic activities or events for the purpose of providing emergency care or treatment to students, spectators, and other individuals in attendance at athletic activities and events. (Education Code 35179.6)

(cf. 5141 - Health Care and Emergencies)

The district shall comply with all requirements of Health and Safety Code 1797.196 pertaining to any AED acquired by the district, including, but not limited to, regular maintenance and testing of the AED and the provision and posting of information regarding the proper use of the AED. (Education Code 35179.6; Health and Safety Code 1797.196)

Additional Notifications

Note: The following optional section lists notices that the district may send to students participating in interscholastic athletics and their parents/guardians. This section should be revised to reflect district practice.

Before students participate in practice or competition as part of interscholastic athletic activities, the Superintendent or designee shall, in addition to providing the students and their parents/guardians with the notices described above, send a notice to the students and their parents/guardians which:

Note: Education Code 33353 requires CIF to provide information to students and parents/guardians about procedures for discrimination complaints arising from interscholastic athletic activities. Education Code 33354 allows a complainant to file a discrimination complaint directly with CDE.

In order to help ensure that the district's athletic program effectively accommodates the interests and abilities of both sexes in athletics within the meaning of 5 CCR 4922, the district shall use the following criteria: (Education Code 230)

1. Whether the interscholastic level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments
2. When the members of one sex have been and are underrepresented among interscholastic athletes, whether the district can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interest and abilities of the members of that sex
3. When the members of one sex are underrepresented among interscholastic athletes, and the district cannot show a history and continuing practice of program expansion as required in item #2 above, whether the district can demonstrate that the interest and abilities of the members of that sex have been fully and effectively accommodated by the present program

Parental Notifications

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

1. Contains information about the procedures for filing a discrimination complaint that arises out of an interscholastic athletic activity, including the name of the district's Title IX Coordinator

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Education Code 221.61 requires districts to post specified information on their web sites related to Title IX. A district that does not maintain a web site may comply by posting the information on the web site of its county office of education. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8. See AR 5145.3 - Nondiscrimination/Harassment. **Optional** item #2 below provides that this information will also be provided in writing to the parents/guardians of student athletes.

2. Includes a copy of students' Title IX rights pursuant to Education Code 221.8

Note: In Kahn v. East Side Union High School District, the California Supreme Court analyzed the liability of a coach for an injury to a member of a high school diving team. The court acknowledged that some risk of injury is inherent in sports and part of a coach's job is to "push" a student athlete to advance in skill level and to undertake more difficult tasks. According to the court, a coach could be found liable only when the coach intentionally injures the student or engages in conduct that is so reckless that it is outside of the ordinary activity involved in teaching or coaching the sport.

The district may or may not wish to seek a waiver of liability for accidents or injuries resulting from participation in athletic activities. Whether a liability waiver is legally effective is likely to be determined on a case-by-case basis, and it is questionable whether a student's right to participate in extracurricular activities could be made contingent upon the submission of a waiver. Legal counsel should be consulted when addressing the complex issues related to liability waivers.

~~3. *(cf. 5145.3 - Nondiscrimination/Harassment)*~~

2. Explains that there is an element of risk associated with all athletic competitions and that the district cannot guarantee that students will not be injured, despite ~~its~~ its commitment to ~~provide for~~ every participant's health and welfare

(cf. 3530 - Risk Management/Insurance)

Note: Education Code 32221.5 requires the district to provide information about insurance protection to each student participating on a school athletic team. For specific language that must be contained in this statement, see AR ~~(cf. 5143 - Insurance.)~~

4. Provides information about insurance protection pursuant to Education Code 32221.5

(cf. 5143 - Insurance)

- ~~53.~~ Requests parental permission for the student to participate in the program and, if appropriate, to be transported by the ~~districtschool~~ to and from competitions

(cf. 3541.1 - Transportation for School-Related Trips)

Note: Pursuant to Education Code 48900, a student may be subject to suspension or expulsion for engaging, or attempting to engage, in hazing.

64. States the district's ~~Governing Board's~~ expectation that students adhere strictly to all safety rules, regulations, and instructions, as well as rules and guidelines related to conduct and sportsmanship

(cf. 5144 - Discipline)

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

7. Includes a copy of the local CIF league rules

Note: Pursuant to Education Code 49033 and CIF bylaws, any student participating in athletics and the student's parent/guardian must sign the statement described below. Also see BP/AR 5131.63 - Steroids.

8. Includes information about the CIF bylaw and district policy requiring any student athlete and the student's parent/guardian to sign a statement that the student will not use steroids, unless prescribed by a licensed health care practitioner, and will not use prohibited dietary supplements that include substances banned by the U.S. Anti-Doping Agency

(cf. 5131.63 - Steroids)

Note: Pursuant to Education Code 49476, as added by SB 1109 (Ch. 693, Statutes of 2018), the district must annually provide to student athletes and their parents/guardians CDC's opioid fact sheet for patients. The CDC's fact sheet, Prescription Opioids: What You Need To Know, is available on its web site.

9. Includes the opioid fact sheet published by the Centers for Disease Control and Prevention in accordance with Education Code 49476. The district shall provide this fact sheet annually to each student athlete and shall require the student and the student's parent/guardian to sign a document acknowledging receipt of the fact sheet.

Regulation RESCUE UNION SCHOOL DISTRICT
approved: September 2004 Rescue, California
Considered: February 11, 2020

Rescue Union ESD

Board Policy

Supplemental Instruction

BP 6179

Instruction

Note: The following policy is **mandated** pursuant to Education Code 48070.5 and should be revised to reflect the grade levels offered by the district.

Pursuant to Education Code 52060-52077, the Governing Board must annually adopt a local control and accountability plan which includes goals and actions aligned with state priorities, including student achievement; see BP/AR 0460 - Local Control and Accountability Plan. The provision of high-quality supplemental instruction may be one strategy to improve student achievement outcomes for underperforming students.

In addition, the provision of supplemental instruction may be a strategy to assist low-performing schools identified by the California Department of Education for comprehensive or targeted support and improvement pursuant to 20 USC 6311. Such schools are required to develop and implement a school plan to improve student outcomes.

The Governing Board recognizes that high-quality supplemental instruction can motivate and support students to attain grade-level academic standards, overcome academic deficiencies, and/or acquire critical skills. The district shall offer programs of direct, systematic, and intensive supplemental instruction to meet student needs. Supplemental instruction shall be offered in accordance with law and may be used to assist the district in meeting its goals for student achievement.

(cf. 0460 - Local Control and Accountability Plan)
(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5147 - Dropout Prevention)
(cf. 6011 - Academic Standards)
(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.5 - Elementary/Middle School Graduation Requirements)
(cf. 6164.5 - Student Success Teams)

Supplemental instruction may be offered during and outside the regular school day, including during the summer, before school, after school, on Saturday, and/or during intersessions. When supplemental instruction is offered during the regular school day, it shall not supplant the student's instruction in the core curriculum areas or physical education.

(cf. 5148.2 - Before/After School Programs)
(cf. 6111 - School Calendar)
(cf. 6112 - School Day)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6176 - Weekend/Saturday Classes)
(cf. 6177 - Summer Learning Programs)

As appropriate, supplemental instruction may be provided through a classroom setting, individual or small group instruction, technology-based instruction, and/or an arrangement with a community or other external service provider.

~~(cf. 1020 - Youth Services)~~

When determined to be necessary by the principal or designee and when written parent/guardian consent is obtained for the student's participation, a student may be required to participate in supplemental instruction outside the regular school day. ~~In such cases, written parent/guardian consent shall be obtained for the student's participation.~~

Note: Education Code 48070.5 **mandates** that districts adopt policy indicating the manner in which opportunities for remedial instruction will be provided to students who are recommended for retention. See BP/AR 5123 - Promotion/Acceleration/Retention for information regarding the criteria for identifying students for retention.

Supplemental instruction shall be offered to students who are recommended for retention, in grades 2-9 who have been retained or are identified as being at risk ~~recommended~~ for retention, at their current grade level. (Education Code ~~37252.2~~, 48070.5)

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

~~(cf. 5123 - Promotion/Acceleration/Retention)~~

~~The district shall offer alternative supports designed to increase the academic achievement of socioeconomically disadvantaged students attending schools identified by the California Department of Education for program improvement for two or more consecutive years.~~

~~(cf. 0520.2 - Title I Program Improvement Schools)~~

~~(cf. 0520.3 - Title I Program Improvement Districts)~~

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

Note: Items #1-2 below are **optional** and may be revised to reflect district practice.

In addition, supplemental instruction may be offered to:

~~1. Students who are identified as being at risk for retention based on state assessment results, grades, or other indicators~~

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

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

2. Students who demonstrate academic deficiencies that may jeopardize their attainment of academic standards

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

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

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

~~(cf. 6142.92 - Mathematics Instruction)~~

(cf. 6142.93 - Science)
(cf. 6142.94 - History-Social Science Instruction)

Legal Reference:

EDUCATION CODE

37200-37202 School calendar

37223 Weekend classes

~~37252-37254.1 Supplemental instruction, summer school~~

42238.01-42238.507 Local control funding formula

46100 Length of school day

48070-48070.65 Promotion and retention

48200 Compulsory education

48985 Translation of notices

51210-51212 Courses of study, elementary schools

51220-51228 Courses of study, secondary schools

52060-52077 Local control and accountability plan

60603 Definitions, core curriculum areas

60640-60649 California Assessment of Student Performance and Progress

~~60850-60859 High school exit examination, especially:~~

~~60851.5 Suspension of high school exit examination~~

CODE OF REGULATIONS, TITLE 5

11470-11472 Summer school

UNITED STATES CODE, TITLE 20

6311 State plan

Management Resources:

~~CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS~~

~~Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016~~

WEB SITES

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

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

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

Policy RESCUE UNION SCHOOL DISTRICT
adopted: September 2004 Rescue, California
revised: January 2009
revised: August 16, 2016
Considered: February 11, 2020

Rescue Union ESD

Board Bylaw

Meeting Conduct

BB 9323

Board Bylaws

Note: Education Code 35010 mandates the Governing Board to "prescribe and enforce" rules for its own governance. These rules must not be inconsistent with law or with regulations prescribed by the State Board of Education. The following bylaw provides suggested rules and procedures for meeting conduct and reflects provisions of law as applicable.

Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

(cf. 9322 - Agenda/Meeting Materials)

Note: The law does not specify that a particular set of procedures must govern Board meetings. Although Robert's Rules of Order can serve as a useful guide, the Board may adopt any procedure that allows for the efficient and consistent conduct of meetings.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

(cf. 9121 - President)

Note: The following optional paragraph limits the length of Board meetings and should be revised to reflect district practice.

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 10~~by 9~~:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and subsequently may be adjourned to a later date.

(cf. 9320 - Meetings and Notices)

Note: In *Rubin v. City of Burbank*, an appellate court held that inclusion of "sectarian prayer" at city council meetings, which communicated a preference for a particular religious faith and advanced one faith over another, was unconstitutional by directing the prayer "in the name of Jesus." The court held that it would be constitutional to require the city to advise those people conducting the prayer of this limitation. This opinion is consistent with an unpublished 9th Circuit federal court opinion which stated that an invocation "in the name of Jesus" was unconstitutional in that it displayed allegiance to a particular faith.

Some general guidelines for invocations can be found in an Attorney General's opinion (76 Ops.Cal.Atty.Gen. 281 (1993)) which stated that a county board of supervisors could open its sessions with an invocation when the invocation is (1) not required by law as a condition to the official proceedings, (2) not part of the deliberative agenda, (3) not offered, supervised, or approved as to content by a public officer, (4) not officially limited to a particular religion, (5) not disparaging of others, and (6) not directed towards proselytizing. However, because this is an unsettled area of law that is subject to frequent litigation, it is strongly recommended that districts consult legal counsel if they wish to open meetings with an invocation. Note that a different legal analysis applies to student-led or student-initiated prayer; see BP 5127 - Graduation Ceremonies and Activities.

Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

(cf. 9323.2 - Actions by the Board)

Note: According to an Attorney General opinion (61 Ops.Cal.Atty.Gen. 243 (1978)), members of a public body have a duty to vote on issues before them so that the public is represented and receives the services which the public body was created to provide. Issues arise when a motion is tied and one Board member has abstained. The general parliamentary rule is that an abstention is counted as agreeing with the action taken by the majority of those who vote, whether affirmatively or negatively (66 Ops.Cal.Atty.Gen. 336 (1983)). However, a stronger argument could be made that the parliamentary rule is in conflict with Education Code 35164 which requires a majority vote of all of the membership of the Board in order for the Board to act (i.e., a majority of all of the membership of the Board must vote affirmatively in order to approve any action). In 55 Ops.Cal.Atty.Gen. 26 (1972), the Attorney General opined that, when a statutory requirement exists that requires an affirmative action of at least a majority of the members of the Board, the general rule that members not voting were deemed to have agreed with the action taken by the majority of those that voted is not applicable.

The following **optional** paragraph is consistent with CSBA's opinion that a majority of the Board must vote affirmatively for a motion to carry, but the law is not settled and contrary legal opinions may exist. It is strongly recommended that the district consult with legal counsel and modify the following paragraph to ensure consistency with district practice.

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, ~~the~~his/her abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

(cf. 9270 - Conflict of Interest)

Note: The following paragraph applies only to districts with seven member boards and **should be deleted by districts with a three or five member board.**

Provided the Board typically has seven members and there are no more than two vacancies on the Board, the vacant position(s) shall not be counted for purposes of determining how many members of the Board constitute a majority. In addition, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

Public Participation

Note: Pursuant to Government Code 54953.3, members of the public cannot be required to register their names, complete a questionnaire, or provide other information as a condition of attending a Board meeting. If an attendance list or similar document is posted near the entrance or circulated during the meeting, it must clearly state that signing or completing the document is voluntary.

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

Note: Education Code 35145.5 mandates the Board to adopt regulations which ensure that the public can address the Board regarding agenda items, as specified below.

District employees have the same right as members of the public to address the Board during a public Board meeting. In 90 Ops.Cal.Atty.Gen. 47 (2007), the Attorney General opined that, under the Ralph M. Brown Act, an administrative district employee cannot be prohibited from attending a Board meeting or from speaking during the public comment period, including comments on an employment-related issue.

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5; Government Code 54954.2)
3. ~~Without taking~~ ~~action,~~ ~~Board~~ ~~or~~ ~~discussion~~ ~~shall~~ ~~be~~ ~~undertaken~~ ~~on~~ ~~any~~ ~~item~~ ~~not~~ ~~appearing~~ ~~on~~ ~~the~~ ~~posted~~ ~~agenda,~~ ~~except~~ ~~that~~ members ~~or~~ ~~district~~ ~~of~~ ~~a~~ ~~legislative~~ ~~body~~ ~~or~~ ~~its~~ staff members may briefly respond to statements made or questions posed by the persons ~~exereising~~ ~~their~~ ~~public~~ about items not appearing on the agenda. ~~Additionally~~ ~~testimony~~ ~~rights~~ ~~under~~ ~~Section~~ ~~54954.3.~~ ~~In~~ ~~addition,~~ on their own initiative or in response to questions posed by the public, Board members ~~a~~ ~~member~~ ~~of~~ ~~a~~ ~~legislative~~ ~~body~~ or ~~its~~ ~~staff~~ members may ask a question for clarification, make a brief announcement, or make a brief report on their ~~his~~ ~~or~~ ~~her~~ own activities. ~~Furthermore,~~ ~~a~~ ~~member~~ ~~of~~ ~~a~~ ~~legislative~~ ~~body,~~ ~~or~~ ~~the~~ ~~body~~ ~~itself,~~ ~~subject~~ ~~to~~ ~~rules~~ ~~or~~ ~~procedures~~ ~~for~~ ~~the~~ ~~legislative~~ ~~body,~~ ~~may~~ ~~provide~~ ~~a~~ ~~reference~~ ~~to~~ ~~staff~~ ~~or~~ ~~other~~ ~~resources~~ ~~for~~ ~~factual~~ ~~information,~~ ~~request~~ ~~staff~~ ~~to~~ ~~report~~ ~~back~~ ~~to~~ ~~the~~ ~~body~~ ~~at~~ ~~a~~ ~~subsequent~~ ~~meeting~~ ~~concerning~~ ~~any~~ ~~matter,~~ ~~or~~ ~~take~~ ~~action~~ ~~to~~ ~~direct~~ ~~staff~~ ~~to~~ ~~place~~ ~~a~~ ~~matter~~ ~~on~~ ~~a~~ ~~future~~ ~~agenda.~~ (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

(cf. 9130 - Board Committees)

5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

Note: Government Code 54954.3 authorizes reasonable regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Such reasonable regulations must ensure that the intent of allowing the public an adequate opportunity to speak to the Board is carried out. The following paragraph should be revised to reflect district practice.

~~In general, individual~~Individual speakers ~~will~~shall be allowed three minutes to address the Board on each agenda or nonagenda item, ~~and the~~The Board ~~will~~shall limit the total time for public input on each item to 20 minutes. ~~However, in exceptional circumstances when necessary to ensure full opportunity for public input, With Board consent,~~the Board president may, ~~with Board consent, adjust the amount of~~ ~~increase or decrease the~~ time allowed for public ~~input and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints, presentation, depending on the topic and the number of persons wishing to be heard.~~ The president may ~~also~~take a poll of speakers for or against a particular issue and may ask ~~members of the public with the same viewpoint to select a few individuals to address the Board on behalf of that viewpoint~~that additional persons speak only if they have something new to add.

In order to ensure that non-English speakers receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

6. The Board president may rule on the appropriateness of a topic, subject to the following conditions:___
 - a. If a topic would be suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.

- b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3)___

Note: The following **optional** item addresses the issue of specific charges or complaints against district employees in open Board meetings. Although the Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit criticisms of the district and its employees, no matter how harsh. Board members and staff may briefly respond to the concerns raised by the complainant at the meeting.

In *Baca v. Moreno Valley Unified School District*, a federal district court issued a preliminary injunction against the district prohibiting it from enforcing its policy barring criticism of employees at public Board meetings. The court found that the district's policy violated the plaintiff's First Amendment rights by restricting the content of her speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. It is recommended that the Board consult legal counsel if a question arises regarding public criticism of a district employee.

- c. The Board shall not prohibit public criticism of district employees. However, whenever a member of the public initiates specific complaints or charges against an individual employee, the Board president shall inform the complainant of the appropriate complaint procedure. ___

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session Purposes and Agendas)

Note: As provided in item #7 below, Government Code 54957.9 authorizes the Board to remove persons who willfully disrupt or disturb a meeting. Examples of disruptive conduct might include conduct that is extremely loud, disturbing, or creates a health or safety risk. In *McMahon v. Albany Unified School District*, the court held that a speaker's constitutional rights were not violated when he was removed from a Board meeting after dumping a substantial amount of garbage on the floor of the meeting room. Because the speaker was not removed based on the content of his speech, the court upheld his conviction for a willful disruption of a public meeting. In *City of San Jose v. Garbett*, the court held that a legislative body may exclude from a meeting a person who has expressed a credible threat of violence that would place reasonable persons in fear for their safety or the safety of their immediate family and that serves no legitimate purpose.

However, the courts have found that a person's conduct must actually disrupt the meeting in order to warrant ejection. In *Norse v. City of Santa Cruz*, the court held that the city council improperly ejected a member of the public who gave the council a silent Nazi salute, on the grounds that the action did not interfere with the proceedings of the meeting.

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the president to terminate the privilege of addressing the Board.

The Board may remove disruptive individuals and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement as necessary.

Recording by the Public

Note: Government Code 54953.5 provides that any person attending an open meeting may record it with an audio or video recorder or a still or motion picture camera unless the Board makes a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view which would persistently disrupt the meeting. Government Code 54953.6 requires a similar finding before the Board can prohibit or restrict a broadcast of its meetings.

The following paragraph extends the right to record an open meeting to include recordings made by other devices such as a cell phone.

Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The Superintendent or designee may designate locations from which members of the public may make such recordings without causing a distraction.

(cf. 9324 - Board Minutes and Recordings)

If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

Legal Reference:

EDUCATION CODE

- 5095 Powers of remaining board members and new appointees
- 32210 Willful disturbance of public school or meeting a misdemeanor
- 35010 Prescription and enforcement of rules
- 35145.5 Agenda; public participation; regulations
- 35163 Official actions, minutes and journal
- 35164 Vote requirements
- 35165 Effect of vacancies upon majority and unanimous votes by seven member board

CODE OF CIVIL PROCEDURE

- 527.8 Workplace Violence Safety Act

GOVERNMENT CODE

- 54953.3 Prohibition against conditions for attending a board meeting
- 54953.5 Audio or video recording of proceedings
- 54953.6 Broadcasting of proceedings
- 54954.2 Agenda; posting; action on other matters
- 54954.3 Opportunity for public to address legislative body; regulations
- 54957 Closed sessions
- 54957.9 Disorderly conduct of general public during meeting; clearing of room

PENAL CODE

- 403 Disruption of assembly or meeting

COURT DECISIONS

- City of San Jose v. Garbett; (2010) 190 Cal.App.4th 526
- Norse v. City of Santa Cruz; (9th Cir. 2010) 629 F3d 966

McMahon v. Albany Unified School District; (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank; (2002) 101 Cal.App.4th 1194

Baca v. Moreno Valley Unified School District; (1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

90 Ops.Cal.Atty.Gen. 47 (2007)

76 Ops.Cal.Atty.Gen. 281 (1993)

66 Ops.Cal.Atty.Gen. 336 (1983)

63 Ops.Cal.Atty.Gen. 215 (1980)

61 Ops.Cal.Atty.Gen. 243, 253 (1978)

59 Ops.Cal.Atty.Gen. 532 (1976)

55 Ops.Cal.Atty.Gen. 26 (1972)

Management Resources:

CSBA PUBLICATIONS

Call to Order: -A Blueprint for Great Board Meetings, 2015

The Brown Act: -School Boards and Open Meeting Laws, rev. 2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: -Open Meetings for Local Legislative Bodies, 2003

WEB SITES

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

Bylaw RESCUE UNION SCHOOL DISTRICT

adopted: September 2004 Rescue, California

revised: September 25, 2018

revised: October 9, 2018

Considered: February 11, 2020

Rescue Union ESD

Board Bylaw

Actions By The Board

BB 9323.2

Board Bylaws

Note: Pursuant to Education Code 35164, a majority vote of all members of the Governing Board is necessary for an item to carry, even in those cases where some members are absent. Thus, for districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy. Education Code 35165 details the effect of a vacancy in districts with a seven-member board. For language regarding vote requirements when a board member abstains, see BB 9323 - Meeting Conduct.

The law specifies certain board actions as requiring more than a majority vote: see E(1) 9323.2 for a list of such actions.

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9012 - Board Member Electronic Communications)

(cf. 9200 - Limits of Board Member Authority)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

Action on Non-Agenda Items

Note: The Brown Act (Government Code 54950-54963) generally prohibits any action or discussion of items not on the posted agenda. However, Government Code 54954.2 provides for three specific and narrow situations in which the Board can act on an item not on the agenda, as specified below. Board members may also briefly

respond to questions raised by members of the public concerning items not on the agenda; see BB 9323 - Meeting Conduct.

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Challenging Board Actions

Note: Government Code 54960 grants authority to the district attorney or any interested person to file a civil action asking the court to order the Board to stop or prevent Brown Act violations specified below. The Board should respond to legal challenges to its actions and consult legal counsel when necessary. Pursuant to Government Code 54960.5, a court may award court costs and reasonable attorney's fees to a plaintiff who successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies provided in Government Code 54960-54960.2.

The district attorney's office or any interested person may file an action in court for the purpose of: (Government Code 54960, 54960.2)

1. Stopping to stop or preventing prevent the Board's violation or threatened violation ~~threats of violations~~ of the Brown Act
2. Determining, to determine the applicability of the Brown Act to ongoing or future threatened Board actions
3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:
 - a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

Note: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.

~~b, to determine.~~ The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

c. The action is brought within the time required by Government Code 54960.2.

4. Determining the validity, under state California or federal law, of any Board rule or action which penalizes to penalize any of its members or otherwise discourages their discourage ~~the member's~~ expression

5. Compelling, or to compel the Board to audio record its closed sessions because of a court's finding of the Board's its violation of any applicable Government Code provision- ~~(Government Code 54960)~~

Note: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (i.e., declare null and void) actions that violate specific provisions of the Brown Act listed in Government Code 54960.1 and specified below. However, even when the action may normally be subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board action resulted in a contract with a party who detrimentally relied on the action in good faith and without notice of a challenge to its validity), the action may not be invalidated.

Before seeking court action, the person who believes a violation occurred must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.

The district attorney or any interested person may file an action in court to nullify present a demand that the Board cure and correct a Board action which ~~he/she alleges is~~ alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

- 1.- Open meeting and teleconferencing (Government Code 54953)
- 2.- Agenda posting (Government Code 54954.2)
- 3.- Closed session item descriptions (Government Code 54954.5)
- 4.- New or increased tax assessments (Government Code 54954.6)
- 5.- Special meetings (Government Code 54956)
- 6.- Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present aAny demand to "cure and correct" thean alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be

presented to the Board in writing within 90 days of the date when the action was taken.- If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. -(Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: _(Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day ~~review~~ period, its inaction shall be considered a decision not to cure or correct the challenged action.

~~In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met:-(Government Code 54960.2)~~

~~1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.~~

~~2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.~~

Legal Reference:

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes

~~17510-17512 Leasing for production of gas, resolution~~~~17511 Resolution~~ requiring unanimous vote-
~~of all members constituting board~~

17546 Private sale of personal property

17556-17561 Dedication of real property

~~17582-17583 District deferred maintenance fund~~

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools, establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements
53790-53792 Exceeding the budget
53820-53833 Temporary borrowing
53850-53858 Temporary borrowing

Legal Reference: (continued)

GOVERNMENT CODE (continued)

54950-54963 The Ralph M. Brown Act, especially:
54952.6 Action taken, definition
54953 Meetings to be open and public; attendance; prohibition against secret ballots
54960-54960.5 Actions to prevent violations
65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications
20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
20113 Emergencies, award of contracts without bids
20114 Repairs, maintenance, and improvements to district facilities by day labor or force account
22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance
22035 Repair or replacement of facilities in case of emergency
22050 Emergency contracting procedures

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

Management Resources:

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The Brown Act: School Boards and Open Meeting Laws, ~~2014~~2009

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The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010, ~~2007~~

WEB SITES

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

~~California Attorney General's Office: <http://www.oag.ca.gov>~~

Institute ~~for~~ Local Government: <http://www.ca-ilg.org>

Office of the Attorney General: <http://www.oag.ca.gov>

Policy RESCUE UNION SCHOOL DISTRICT
adopted: September 2004 Rescue, California
revised: February 26, 2013
Considered: February 11, 2020

Rescue Union ESD

Exhibit

Actions By The Board

E 9323.2

Board Bylaws

ACTIONS REQUIRING A SUPER MAJORITY VOTE

Note: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future.

Actions Requiring a Two-Thirds Vote of the Board:

Note: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring the Governing Board's intention to sell or lease real property (Education Code 17466)

(cf. 3280 - Sale or Lease of District-Owned Real Property)

2. Resolution declaring the Board's intent ~~of Governing Board~~ to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

Note: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858 which requires only a majority vote of the Board.

5. Request for temporary borrowing of funds needed for immediate requirements of the district ~~pursuant to Government Code 53820-53833~~, to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)

6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)

(cf. 7131 - Relations with Local Agencies)
(cf. 7150 - Site Selection and Development)
(cf. 7160 - Charter School Facilities)

7. When the district ~~is organized~~~~has an average daily attendance (ADA) of 2,500 or less and seeks to serve only grades K-8, action to establish~~~~situate~~ a community day school ~~on an existing school site, certification that satisfactory alternative facilities are not available for any of grades K-8 a community day school~~ (Education Code ~~4866048661~~)

~~(cf. 6185 - Community Day School)~~

8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

~~9. When the district desires to operate a community day school to serve any of grades K-6 (and no higher grades) on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

~~(cf. 6185 - Community Day School)~~

- ~~910.~~ Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)

~~(cf. 7214 - General Obligation Bonds)~~

- ~~1011.~~ Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)

~~(cf. 7213 - School Facilities Improvement Districts)~~

- ~~1112.~~ Resolution to place a parcel tax on the ballot (Government Code 53724)

Note: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

- ~~1213~~. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

Actions Requiring a Four-Fifths Vote of the Board:

Note: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need six board members to vote in favor of the item.

1. Expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense (Government Code 53790-53792)

(cf. 3110 - Transfer of Funds)

2. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
3. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-53824)
4. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

(cf. 3311 - Bids)

Note: Item #5 is for use by districts governed by a five-member or seven-member board.

5. When the district has a five-member or seven-member Board, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

Note: AB 2249 (Ch. 169, Statutes of 2018) amended Public Contract Code 22034 to change the thresholds for public works projects bid pursuant to the Uniform Public Construction Cost Accounting Act, thereby increasing the amount requiring board resolution, as provided in item #6.

6. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the Uniform Public Construction Cost Accounting Act for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

(cf. 3311.1 - Uniform Public Construction Cost Accounting Procedures)

Actions Requiring a Unanimous Vote of the Board:

1. Resolution authorizing and prescribing the terms of a ~~community~~-lease of district property for extraction and taking of gas not associated with oil (Education Code 17510-17511)
2. Authorization of the use of day labor or force account, or waiver~~Waiver~~ of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property ~~in the local dump~~ or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

|
Exhibit RESCUE UNION SCHOOL DISTRICT
version: September 2004 Rescue, California
revised: February 26, 2013
revised: October 28, 2014
Considered: February 11, 2020

Rescue Union ESD

Exhibit-2

Actions By The Board

E 9323.2

ACTIONS BY THE BOARD

UNCONDITIONAL COMMITMENT LETTER

Note: Government Code 54960 authorizes the district attorney or other interested person to file an action in court to determine the applicability of the Ralph M. Brown Act to any past Governing Board action which is not specified in Government Code 54960.1; see the accompanying board bylaw. Pursuant to Government Code 54960.2, prior to commencing such an action the district attorney or other interested person must send a cease and desist letter to the Board within nine months of the alleged violation. Within 30 days of receiving the cease and desist letter, the Board may respond by sending an unconditional commitment, substantially in the same form provided in Government Code 54960.2, to desist from repeating the past action. If the Board so responds, the district attorney or other interested person may not file an action in court. The following exhibit presents a sample unconditional commitment letter.

To: (Name of district attorney or any interested person)

The Governing Board of (name of school district)~~the Rescue Union School District~~ has received your cease and desist letter dated (date) alleging that the following ~~described~~ past action taken by the Board violates the Ralph M. Brown Act: (Describe alleged past action as set forth in the cease and desist letter.)

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. –The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

(Name)

(Title of Board President or other designee)

|
Exhibit
version: September 2004
revised: February 26, 2013
Considered: February 11, 2020

RESCUE UNION SCHOOL DISTRICT
Rescue, California

ITEM #: 5

DATE: February 11, 2020

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: 2020 CSBA Delegate Assembly Election

BACKGROUND:

CSBA elects their Delegate Assembly annually. CSBA Delegates serve two-year terms. Those elected will serve beginning April 1, 2020 through March 31, 2022. There are two Delegate Assembly meetings each year, one in May prior to CSBA's Legislative Action Conference in Sacramento and one preceding the CSBA Annual Education Conference in December.

STATUS:

There is one vacancy in our Region, Sub-Region 6-C (Alpine, Amador, El Dorado, and Mono Counties). The Board as a whole may cast one vote for one candidate.

FISCAL IMPACT:

NA

BOARD GOAL:

NA

RECOMMENDATION:

The Board as a whole cast their one vote for the candidate of their choice.

REQUIRES BOARD ACTION

This completed **ORIGINAL** Ballot must be **SIGNED** by the Superintendent or Board Clerk and returned in the enclosed envelope postmarked by the U.S. post office no later than **MONDAY, MARCH 16, 2020**. Only ONE Ballot per Board. Be sure to mark your vote "X" in the box.

A PARTIAL, UNSIGNED, PHOTOCOPIED, OR LATE BALLOT WILL NOT BE VALID.

OFFICIAL 2020 DELEGATE ASSEMBLY BALLOT
SUBREGION 6-C
(Alpine, El Dorado, Mono Counties)

(Vote for no more than 1 candidate)

Delegates will serve two-year terms beginning April 1, 2020 – March 31, 2022

**denotes incumbent*

Misty diVittorio (Placerville Union ESD)*

Provision for Write-in Candidate Name

School District

Signature of Superintendent or Board Clerk

Title

School District

Date of Board Action

See reverse side for a current list of all Delegates in your Region.



Delegate Assembly Biographical Sketch Form for 2020 election

DUE: Tuesday, January 7, 2020 – no late submissions accepted

Please complete, sign, and date this required biographical sketch form. An optional, ONE-page, single-sided, résumé may also be submitted. Please do not state "see résumé" and do not re-type this form. It is the candidate's responsibility to confirm that all nomination materials have been received by the CSBA Executive Office, call 800.266.3382 or email at nominations@csba.org.

Your signature indicates your consent to have your name placed on the ballot and to serve as a Delegate, if elected.

Signature: Misty diVittorio

Date: 1/6/2020

Name: Misty diVittorio

CSBA Region & subregion #: 6/6C

District or COE: Placerville Union

Years on board: 15

Profession: Retired Educator Contact Number (please v Cell Home Bus.): 530-919-3953

*Primary E-mail: mistydiv@gmail.com

(*Communications from CSBA will be sent to primary email)

Are you an incumbent Delegate? Yes No | If yes, year you became Delegate: 2014

Why are you interested in becoming a Delegate? Please describe the skills and experiences you would bring to the Delegate Assembly.

I want to continue as a CSBA delegate to be a part of CSBA's plan to become a powerful force in the state; focusing on adequacy of funding for the education of our state's children. I have been involved in education for 50 years I have volunteered in the classroom of all of my 6 children, served on site councils, task force, taught as a guest teacher at all grade levels, ran an after school enrichment business for local schools 30 years, and administered a Career Technical Grant. I have experience at all levels of education. The rural

Please describe your activities and involvement on your local board, community, and/or CSBA.

As treasurer of El Dorado County School Boards Association (EDCBSA), I am in touch with the "rural reality". Energy shut downs have increased their problems. I am able to be their voice at the state level as well as being CSBA's voice at our local level. California leads the nation in sustainable practices and our schools can be a powerful part of that movement, setting positive role models for our children. As a long term board member, 15 years, I have served in all of the offices. I graduated from the Masters in Governance program twice, attended multiple Legislative Days, joined the PAC and worked on the 2018 AEC Committee.

What do you see as the biggest challenge facing governing boards and how can CSBA help address it?

I feel the changing demographics of our student population and the increasing number of students needing social and emotional support is our biggest challenge. The funding to do this is imperative. Viewing the many sides of the problem and creating partnerships within our communities is also crucial. In summary, I have cut a wide swath, working with many different people in education; I view the issues from many angles. I am passionate that education be funded properly. I looking forward to this exciting opportunity to serve as a delegate for Region 6.

Submit biographical sketch form only once, do not send multiple times. E-mail: nominations@csba.org, or fax to (916) 371-3407, or US Mail to: CSBA Exec. Office | Attn: DA Elections | 3251 Beacon Blvd., West Sacto, CA 95691 by the deadline: Tues. Jan. 7, 2020.

Rescue Union School District

AGENDA ITEM: **Action Item: Rescue Union Resolution #20-01**
(between the El Dorado Schools Financing Authority and Serrano El
Dorado Owners' Association)

BACKGROUND:

The El Dorado Schools Financing Authority, consisting of its member school districts, the Buckeye Union SD, Rescue Union SD, the El Dorado Union High SD and the Serrano El Dorado Owners' Association, have developed a Final Settlement Agreement and corresponding Resolution related to the establishment of an end date for Community Facilities District No. 1 of the El Dorado Schools Financing Authority. All material terms of the Final Settlement Agreement have been agreed to by all parties and a draft of this Resolution was presented to the Governing Board of the El Dorado Schools Financing Authority for final action on January 22. Rescue Union School District has one appointed Board member sitting on the Governing Board of the El Dorado Schools Financing Authority. This resolution, in addition to the one approved on January 28, 2020 for CFD, needs approval from the Rescue Union Board of Trustees.

STATUS/DISCUSSION:

The purpose is to have the Board approve the Rescue Union Resolution #20-01 pertaining to the Final Settlement Agreement.

FISCAL IMPACT:

None.

BOARD GOAL(S):

Board Focus Goal II – FISCAL ACCOUNTABILITY:

Keep the district fiscally solvent through prudent LCAP aligned budget processes in order to meet the needs of our students.

Board Focus Goal V – FACILITY/HOUSING:

Build, improve and maintain school facilities to meet current and future education needs while integrating the most effective and efficient use of resources.

RECOMMENDATION:

We recommend that the Board approve Rescue Union Resolution #20-01 pertaining to the Final Settlement Agreement related to the establishment of an end date for Community Facilities District No. 1 of the El Dorado Schools Financing Authority.

RESOLUTION NO. 20-01

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE
RESCUE UNION SCHOOL DISTRICT, APPROVING THE FINAL
SETTLEMENT AGREEMENT RELATING TO THE FUTURE TERMINATION
OF THE SPECIAL TAX LEVIED BY COMMUNITY FACILITIES DISTRICT
NO. 1 (CFD NO. 1) OF THE EL DORADO SCHOOLS FINANCING
AUTHORITY, AND THE FUTURE DISSOLUTION OF CFD NO. 1**

WHEREAS, on June 19, 1990, a Joint Exercise of Powers Agreement was entered into among the Rescue Union School District (the “District”), the El Dorado Union High School District, and the Buckeye Union School District (together, the “School Districts”), establishing the El Dorado Schools Financing Authority (the “Authority”) pursuant to the Joint Powers Act (Gov. Code, §§ 6500, et seq.), for the purposes set forth pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Gov. Code, §§ 6584, et seq.); and

WHEREAS, the Authority established Community Facilities District No. 1 (“CFD No. 1”) in 1991 pursuant to the Mello-Roos Community Facilities Act of 1982 (Gov. Code, §§ 53311, et seq.); and

WHEREAS, CFD No. 1 is authorized to levy, and has levied, special taxes (the “Special Tax”) on property within the boundaries of CFD No. 1, for the purpose of financing school facilities of the School Districts; and

WHEREAS, this Board of Trustees now wishes, as do the Authority, and each of its other member School Districts, to establish an end date for the Special Tax (the “Special Tax Termination Date”), upon which date the Special Tax will be cease to be levied by CFD No. 1; and

WHEREAS, on or around May 22, 2019, the Authority, CFD No. 1, each of the School Districts, and the Serrano El Dorado Owners Association (the “Association”) (together, the “Parties”), entered into a Memorandum of Understanding (the “MOU”), outlining general terms under which the Special Tax would be discontinued and CFD No. 1 would be dissolved, and directing the parties to formalize such terms through the execution of a Final Settlement Agreement among the parties (the “Final Settlement Agreement”); and

WHEREAS, the Final Settlement Agreement has been jointly negotiated and discussed by the Parties, with the help of their respective legal counsel; and

WHEREAS, this Board of Trustees now wishes to approve the Final Settlement Agreement, and authorize staff of the District to execute same, and otherwise conduct and perform the actions contemplated by the Final Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED BY the Board of Trustees (the “Board”) of the Rescue Union School District (the “District”):

1. The Board hereby approves the Final Settlement Agreement in substantially the form attached hereto as Exhibit A.

2. At a meeting of the governing board of the Authority, which meeting will take place following approval of the Final Settlement Agreement by the each of the School Districts, the President of this Board, as a governing board member of the Authority, or such alternate as shall sit on the governing board of the Authority on behalf of the District, is hereby authorized and directed to approve the Final Settlement Agreement on behalf of the Authority.

3. Any one or more of the President of the Board, the Superintendent of the District, or such other person as they may designate (each an "Authorized Officer" and together, the "Authorized Officers"), are hereby authorized and directed to execute the Final Settlement Agreement, and to do any and all things which they may deem necessary or advisable in performance of the District's duties and responsibilities under the terms of the Final Settlement Agreement and otherwise to carry out, give effect to and comply with the intent of this Resolution.

4. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED THIS 11th day of February, 2020.

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

This is to certify that a true and correct copy of the resolution was adopted and approved at a regular meeting of the Board of Trustees of the Rescue Union School District.

President, Board of Trustees of the
Rescue Union School District

ATTEST:

Clerk, Board of Trustees of the
Rescue Union School District