

Concepts And Roles

The Governing Board desires to provide a rich, research-based curriculum that motivates every student to succeed. The Board shall adopt instructional goals and objectives which reflect the district's philosophy and delineate the skills, knowledge and abilities students will need in order to lead successful, productive lives.

(Philosophy)

(Goals for the School District)

(Goals and Objectives)

In order to offer a curriculum that enables students to meet these goals, the Board shall establish curriculum priorities and guidelines for the district. These priorities shall be based on student needs as determined by demographics, data related to student achievement within the district, and the recommendations of staff, parents/guardians and community members.

The Superintendent or designee shall establish a curriculum development process which provides for the ongoing development, review and evaluation of the district's curriculum in keeping with these priorities.

(Curriculum Development and Evaluation)

The Board shall:

1. Establish expected standards of student achievement for each grade level

(Academic Standards)

2. Approve the curriculum development process

3. Adopt the district curriculum and courses of study to be offered

(Courses of Study)

4. Approve and allocate funds for instructional materials and resources

(Budget)

(Equipment, Books and Materials)

(Selection and Evaluation of Instructional Materials)

(Supplementary Instructional Materials)

5. Establish graduation requirements

(High School Graduation Requirements)
(Elementary/Middle School Graduation Requirements)

6. Provide a continuing program of in-service education to keep certificated staff and the administration updated about curriculum issues, instructional strategies and available instructional materials

(Staff Development)
(Staff Development)

7. Review and evaluate the instructional program based on program quality reviews and frequent reports by the Superintendent or designee

(Evaluation of the Instructional Program)

8. Serve as the principal advocate to the community for the instructional program provided to all students

(School Accountability Report Card)
(Communication with the Public)
(Media Relations)
(Role of the Board)

The Superintendent or designee shall:

1. Review research related to curriculum issues
2. Ensure the articulation of the curriculum between grade levels and with postsecondary education and the workplace

(Relations between Private Industry and the Schools)
(Integrated Academic and Vocational Instruction)
(Courses of Study)

3. Determine the general methods of instruction to be used
4. Assign instructors and schedule classes for all curricular offerings

(Assignment)
5. Direct the purchase of instructional materials and equipment
(Purchasing Procedures)

6. Evaluate and report to the Board on student achievement as demonstrated through testing and other types of appraisal

(Student Assessment)

7. The Superintendent or designee shall base instruction on academic standards that meet or exceed state and/or nationally recognized standards, align curriculum with standards, and select instructional materials that achieve continuity, integration, and articulation of the curriculum by course and program.

a. The Superintendent shall ensure that instructional practice is based on a comprehensive review of best practices research for effective standards-based instruction.

b. The Superintendent or designee shall:

i. Effectively measure each student's successful progress towards achieving or exceeding the standards to ensure that the instructional program addresses the different learning styles and needs of students;

ii. Ensure that the instructional program includes opportunities for students to develop talents and interests in more specialized areas;

iii. Appropriately involves families in setting of instructional goals for their children.

Comparability In Instruction

The district shall provide comparable educational opportunities for all students. Instruction in the core curriculum shall be in no way diminished when students receive supplementary services funded by special governmental programs. Services funded by any categorical program shall supplement the district-provided core curriculum and also supplement any services which may be provided by other categorical programs.

(Nondiscrimination in District Programs and Activities)
(Title I Programs)

Legal Reference:

EDUCATION CODE

51000-51007 Legislative intent, educational program

CODE OF REGULATIONS, TITLE 5

3940 Maintenance of effort

4424 Comparability of services

UNITED STATES CODE, TITLE 20

6321 Fiscal requirements/comparability of services

Concepts and Roles Advanced Placement (AP)Instruction

The Governing Board desires a rigorous AP program that provides a strong foundation in skills and prepares students to succeed in college and on AP exams. The Superintendent or designee shall develop grade-level curricula that offer a balanced instructional program.

The Superintendent or designee shall ensure that all High School students have many opportunities to take the full range of AP course options and AP Assessments.

The Board shall adopt AP instructional materials aligned with College Board standards.

Teachers are to use the Board-adopted instructional materials to meet the needs of students at all ability levels. The Superintendent or designee shall provide professional development opportunities to ensure that teachers obtain a solid foundation of core AP concepts, their related skills, and the application of these concepts and skills to solve simple and complex mathematics problems.

Professional Development in Mathematics Instruction

The Superintendent or designee shall provide professional development in mathematics instruction for teachers of grades 9-12, which addresses the subject matter.

To the extent feasible, all certificated teachers participating in the program at the applicable grade levels shall receive this training. The training shall not cause a reduction in student instructional time. (Education Code 44757, 44759)

Legal Reference:

EDUCATION CODE

51210 Areas of study, grades 1 through 6

51220 Areas of study, grades 7 through 12

Concepts and Roles Mathematics Instruction

The Governing Board desires to offer a rigorous mathematics program that provides a strong foundation in basic mathematical skills and prepares students to apply mathematics in real life. The Superintendent or designee shall develop grade-level curricula that offer a balanced instructional program, including but not limited to:
basic mathematical skills, conceptual understanding, and problem solving.

The Superintendent or designee shall ensure that all students have many opportunities to take the full range of mathematics course options.

The Board desires to offer a coherent educational system for mathematics in which the standards, the curriculum, the instruction, and assessments are aligned with one another. In addition, a balanced standards-based curriculum that places equal importance on the development of conceptual understanding, computational and procedural skills, and problem solving should be the foundation for the mathematics instructional program.

For each grade level, the Board shall adopt Mathematics instructional materials aligned with California state content standards.

Teachers are to use the Board-adopted instructional materials to meet the needs of students at all ability levels. The Superintendent or designee shall provide professional development opportunities to ensure that teachers obtain a solid foundation of core mathematical concepts, their related skills, and the application of these concepts and skills to solve simple and complex mathematics problems.

Professional Development in Mathematics Instruction

The Superintendent or designee shall provide professional development in mathematics instruction for teachers of grades K-12, which addresses the subject matter specified in Education Code 44757.

To the extent feasible, all certificated teachers participating in the program at the applicable grade levels shall receive this training, which also shall be available to school site administrators. The training shall not cause a reduction in student instructional time. (Education Code 44757, 44759)

Legal Reference:

EDUCATION CODE

51210 Areas of study, grades 1 through 6
51220 Areas of study, grades 7 through 12

Management Resources:

CDE PUBLICATIONS

Improving Mathematics Achievement for All California Students: The Report of the California Mathematics Task Force, 1995
Mathematics Framework for California Public Schools, 1992
Instruction

Goals and Objectives

The Governing Board believes that all students need to meet high standards of academic knowledge and skills. In addition, they must have the ability to apply their skills to the workplace, where they will be required to adapt to emerging technologies and changing societal needs. The Board therefore desires to provide an integrated school-to-career instructional program that extends from kindergarten through high-school graduation and prepares all students to have:

1. Mastery of skills and knowledge in mathematics, English, science, civics and government, economics, history, geography, health and safety, physical education, foreign language and the arts
2. Ability to analyze, think creatively, solve problems, make decisions and apply knowledge and skills to real-life situations
3. Strong communication and interpersonal skills
4. Experience with a variety of technologies
5. A flexible personal career plan based on:
 - a. Awareness of possible career paths
 - b. Career counseling
 - c. Consecutive work-site learning experiences
 - d. An understanding of all aspects of the industry the student is preparing to enter

6. Specialized skills that can lead to career entry positions or more advanced education
7. Respect for a diversity of cultures and thoughts
8. Self esteem
9. Awareness of the responsibilities of citizens in a democracy and the importance of community service
10. A positive work ethic, and ability to work independently or in a team
11. Ability to seek out, organize and learn new information

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

(cf. 6030 - Integration of Academic and Vocational Instruction)

Legal Reference:

EDUCATION CODE

51000-51007 Legislative intent for education program, especially

51004 Education goals

51006 Computer education and resources

51007 Programs to strengthen technological skills

51041 Evaluation of educational program

52336-52336.5 Career preparatory programs

UNITED STATES CODE, TITLE 20

2301-2471 Carl D. Perkins Vocational and Applied Technology Act

5801-6084 National Education Reform, Goals 2000

6101-6251 School-to-Work Opportunities Act of 1994

6751-6777 Enhancing Education Through Technology Act, No Child Left Behind Act, Title II, Part D

Academic Standards

The Governing Board recognizes that content and performance standards are necessary to clarify for students, parents/guardians and staff what students are expected to know and be able to do at each grade level and in each area of study. The Board shall adopt high standards for student achievement that meet or exceed statewide standards and challenge all students to reach their full potential.

(cf. 6010 - Goals and Objectives)

Staff shall continually assess students' progress toward meeting the standards and shall offer remedial assistance in accordance with Board policy. The standards shall also provide a basis for evaluating the instructional program, making decisions about curriculum and assessment, and, as required by law, evaluating teacher performance.

While desiring district standards to be specific and comprehensive, the Board does not intend that these standards be so extensive as to describe everything that will be taught in the classroom. The Superintendent or designee shall provide sufficient time and flexibility. The Superintendent or designee shall also have the flexibility to determine the best instructional methods to use in preparing students to meet the standards.

The Superintendent or designee shall ensure that district standards are regularly reviewed and updated as necessary.

Legal Reference:

EDUCATION CODE

44662 Evaluation of certificated employees

51003 Statewide academic standards

60605-60605.5 Adoption of statewide academically rigorous content and performance standards

Management Resources:

WEB SITES

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

School Calendar

The Superintendent or designee shall recommend to the Governing Board a calendar for each school year that will meet the requirements of law as well as the needs of the community, students and the work year for all personnel.

Each school calendar shall show the beginning and ending school dates, legal and local holidays, orientation meeting days, minimum days, vacation periods and other pertinent dates.

The district shall offer 185 days of instruction per school year.

Staff development days shall not be counted as instructional days and shall be at least 8 per school year.

Orientation meeting days shall not be counted as instructional days and shall be at least 9 before students return for the Fall Semester and 1 before students return for the Spring Semester.

Notifications of the schedule of minimum days shall be sent to all parents/guardians at the beginning of the school year. If any minimum days are added to the schedule, the Superintendent or designee shall notify parents/guardians of the affected students as soon as possible and at least one month before the scheduled minimum day. (Education Code 48980)

(cf. 5145.6 - Parental Notifications)

If a school will be used as a polling place on an election day, the Board shall determine whether to continue school in session, designate the day for staff training and development or close the school to students and nonclassified staff. (Elections Code 12283)

Employment Status Reports

Within 30 days of any change in the employment status of a credential holder working in a position requiring a credential made as a result of an allegation of misconduct, the Superintendent or designee shall report the change to the Commission on Teacher Credentialing. The report shall be made whenever one of the following actions is taken as a result of alleged misconduct: (Education Code 44242.5; 5 CCR 80303)

1. Dismissal

(cf. 4117.4 - Dismissal)

2. Nonreelection/nonreemployment

(cf. 4117.6 - Decision Not to Rehire)

3. Suspension for more than 10 days

(cf. 4118 - Suspension/Disciplinary Action)

4. Placement on unpaid administrative leave for more than 10 days pursuant to a final adverse employment action

5. Resignation or other departure from employment

(cf. 4117.2 - Resignation)

The report shall contain all known information about each alleged act of misconduct by the employee. (5 CCR 80303)

The report shall be made regardless of any proposed or actual agreement, settlement or stipulation between the district and the employee not to make such a report. The report shall also be made if the allegations are withdrawn in consideration of the employee's resignation, retirement or other failure to contest the truth of the allegations. (5 CCR 80303)

The Superintendent shall inform the employee in writing of the contents of 5 CCR 80303 upon a change in employment status as a result of alleged misconduct. (5 CCR 80303)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Notice of Other Violations

The Superintendent or designee may notify the Commission on Teacher Credentialing of any of the following: (Education Code 44242.5)

1. A complaint received by the district regarding a credential holder's alleged sexual misconduct.

The notice shall contain all of the following information: (5 CCR 80304)

- a. Name of the employee alleged to have engaged in the sexual misconduct;
- b. Name, age and address of each victim of the alleged sexual misconduct;
- c. A summary of all information known to the district regarding the alleged sexual misconduct; and
- d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 5145.7 - Sexual Harassment)

2. Refusal, without good cause, to fulfill a valid employment contract, or departure from district service without the consent of the Superintendent or Board. (Education Code 44420)

3. Knowing and willful use of student records in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the credential holder or in which the credential holder is an employee. (Education Code 44421.1)

4. Knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program. (Education Code 44421.5)

Legal Reference:

EDUCATION CODE

44225 Powers and duties of the Commission on Teacher Credentialing

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

WEB SITES

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

CTC: <http://www.ctc.ca.gov>

Temporary Modified/Light-Duty Assignment

The Governing Board recognizes that when employees suffer work-related injuries, modified or light-duty assignments minimize lost time and may serve to facilitate the transition back to the employee's regular duties or full-time work. Whenever possible, the Superintendent or designee shall offer such employees this kind of temporary assignment.

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

Modified or light-duty assignments shall be designed to accommodate medical restrictions specified by the employee's physician. They may include work in the same job classification or a different job classification at the employee's regular salary rate.

Modified or light-duty assignments are intended to address short-term medical restrictions and will normally extend for less than eight weeks' duration. These assignments shall not be used as a means to establish new assignments or displace other employees.

Legal Reference:

EDUCATION CODE

44984 Required rules for industrial accident and illness leave

45192 Industrial accident and illness leave for classified employees

Assignment

In order to serve the best interests of students and the educational program, the Superintendent or designee shall assign certificated personnel to positions for which their preparation, certification, experience and aptitude qualify them.

(Certification)

(Employment of Relatives)

Teachers may be assigned to any school within the district

(Transfers)

(Collective Bargaining Agreement)

The Governing Board encourages the assignment of experienced and fully credentialed teachers, including those who have attained National Board for Professional Teaching Standards certification, to schools with the greatest need to improve student achievement.

Teachers may be assigned outside the scope of their certificates or fields of study only as allowed by law and when so required in order to meet the needs of the educational program.

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes, pursuant to Education Code 44258.3. The Superintendent or designee shall develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. These procedures shall be developed with the assistance of subject matter specialists and shall be submitted to the Board for approval.

(Personnel Reduction)

The Superintendent or designee shall periodically report to the Board on any teacher misassignments.

The Superintendent or designee shall establish a committee on assignments which may grant approval for the voluntary assignment of full-time teachers to teach one or more elective courses outside their credential authorization in an area for which they have special skills or preparation.

Legal Reference:

EDUCATION CODE

35035 Additional powers and duties of superintendent

37616 Assignment of teachers to year-round schools
44250-44279 Credentials and assignments of teachers
44395-44398 Incentives for assigning NBPTS-certified teachers to low-performing schools
44824 Assignment of teachers to weekend classes
44955 Reduction in number of employees
GOVERNMENT CODE
3543.2 Scope of representation

Management Resources:

WEB SITES

Commission on Teacher Credentialing: www.ctc.ca.gov

Evaluation/Supervision

The Superintendent or designee shall print and make available to certificated employees written regulations related to the evaluation of their performance in their assigned duties. (Education Code 35171)

(cf. 4100 - Certificated Personnel)

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

(cf. 4117.4 - Dismissal)

Teachers shall be formally observed and given constructive feedback as part of the evaluation process. Within three school days of each formal observation, a conference shall be held between the evaluator and the probationary teacher.

The Superintendent or designee shall assess the performance of certificated instructional staff as it reasonably relates to the following criteria: (Education Code 44662)

1. Students' progress toward district standards of expected achievement for their grade level in each area of study and, if applicable, towards the state-adopted content standards as measured by state-adopted criterion-referenced assessments.

(Academic Standards)

(Student Assessment)

2. The instructional techniques and strategies used by the employee.

3. The employee's adherence to curricular objectives.

(cf. 6010 - Goals and Objectives)

4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities.
5. Other criteria listed in the applicable collective bargaining agreement.

The evaluation of certificated employee performance shall not include the use of publishers' norms established by standardized tests. (Education Code 44662)

Non-instructional certificated employees shall be evaluated on their performance in fulfilling their defined job responsibilities. (Education Code 44662)

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teacher standards approved by the Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and describe the unsatisfactory performance. The Superintendent or designee shall confer with the employee, make specific recommendations as to areas needing improvement and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

Any employee who receives an unsatisfactory rating in the area of teaching methods or instruction shall participate in the district's peer assistance and review program. (Education Code 44662, 44664)

(cf. 4139 - Peer Assistance and Review)

The Superintendent or designee may require any instructional employee who receives an unsatisfactory rating in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of performance and to further student achievement and the district's instructional objectives. (Education Code 44664)

(Staff Development)

Certificated instructional employees shall receive a written copy of their evaluation no later than 30 days before the last day of the school year in which the evaluation takes place. Before the last day of the school year, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Non-instructional certificated staff members employed on a 12-month basis shall receive a copy of their evaluation no later than June 30 of the year in which the evaluation takes place. Before July 30, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Instructional and non-instructional certificated employees shall have the right to respond in writing to their evaluation. This response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

(Personnel Files)

Reasonable Accommodation

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities.
2. A record of such an impairment.
3. Being regarded as having such an impairment.

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (29 CFR 1630.2)

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Reasonable accommodations that an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed that enable an individual with a disability to enjoy equal employment opportunities include, but are not limited to: (29 CFR 1630.2)

1. Making existing facilities accessible and usable.
2. Restructuring the job duties.
3. Offering part-time or modified work schedules.
4. Acquiring or modifying equipment or devices.
5. Changing tests, training materials or policies.

6. Providing qualified readers or interpreters.
7. Reassigning the employee to a vacant position.

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

1. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding.
2. The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at this facility, the effect on expenses and resources of the facility, or the impact on the operations of the facility.
3. The overall financial resources, size, number of employees, and the number, type and location of facilities of the district.
4. The type of operation of the district, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation.
5. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

Requests for Reasonable Accommodation

The district designates the position specified in BP 4030 - Nondiscrimination in Employment as the Ombudsperson of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition.

When requesting reasonable accommodation during the hiring process, a job applicant shall inform the Ombudsperson that he/she will need a reasonable accommodation for the process.

Employees' requests for reasonable accommodation may first be considered informally by the site administrator. The site administrator shall consult with the Ombudsperson before any decision as to accommodation is made.

When the disability and/or the need for accommodation are not obvious, the Ombudsperson may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the Ombudsperson shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the district to submit a list of specific questions to the health care or vocational professional.

If the documentation submitted by the employee does not specify the existence of a qualifying disability and explain the need for reasonable accommodation, the district may require the employee to submit to an examination by a health care professional selected and paid for by the district.

Upon receiving a request to reasonably accommodate a qualified employee with a disability, the Ombudsperson shall:

1. Determine the essential functions of the job.
2. Engage in an informal, interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness.
3. Develop a plan for reasonable accommodation which is effective and allows the employee to perform the essential functions of the job or to gain equal access to a benefit or privilege of employment and does not impose undue hardship on the district.

To qualify for a job, an individual shall not pose a significant risk of substantial harm to himself/herself or others in the workplace which cannot be eliminated or reduced by reasonable accommodation. (29 CFR 1630.2)

The determination of whether an individual poses a significant risk of substantial harm to himself/herself or others shall be made on a case-by-case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and

severity of the potential harm, the likelihood that the potential harm will occur and the imminence of potential harm. (29 CFR 1630.2)

The Ombudsperson may confer with the site administrator, the district medical advisor and/or other district staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The Ombudsperson may appoint a Reasonable Accommodation Committee to review or assist in the development of appropriate plans to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of known physical or mental disabilities. The membership of this committee may change on a case-by-case basis. The committee may include:

1. A district administrator
2. A site administrator
3. A medical advisor or rehabilitation specialist
4. A certificated employee
5. A classified employee

Committee members shall be selected on the basis of their knowledge of the relevant issues, including:

1. The specific functions and duties required in the position.
2. The physical work environment.
3. Available accommodations.

At the Ombudsperson's discretion, the employee or applicant requesting accommodation may participate in or be excluded from committee meetings. If the employee or applicant is excluded from committee meetings, the Ombudsperson shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

The Ombudsperson shall take steps to ensure the confidentiality of information related to medical conditions.

Appeal Process

If the employee or applicant is not satisfied with the decision of the Ombudsperson, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal.
2. A statement of the specific remedy sought.

The Superintendent or designee shall consult with the Ombudsperson and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the employee or applicant his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

36.101-36.608 Nondiscrimination on the basis of disability by public facilities

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct threat

COURT DECISIONS

Colmenares v. Braemar Country Club, Inc., 2003 Cal.LEXIS 1131

Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045

US Airways, Inc. v. Barnett, (2002) 535 U.S., 122 S.Ct. 1516

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

WEB SITES

EEOC: <http://www.eeoc.gov>

Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Whistleblower Protection Policy

The Governing Board seeks to foster a culture of integrity and a climate of trust between the District, the public, and those who work with and for the District, and to inspire greater confidence in the integrity of District operations and decision-making.

Therefore, it is the expectation the Governing Board that individuals disclose improper governmental activities and to submit written complaints that allege acts or attempted acts of interference, reprisal, retaliation, threats, coercion or intimidation against individuals who disclose improper governmental activities.

The Superintendent or designee shall prioritize the investigation and correction of any and all abuses resulting from improper governmental activities, and to protect those who come forward to report improper governmental activities.

To assure the reporting of any activity that threatens the efficient administration of AIMS, complaints that allege improper governmental activities shall be kept confidential to the highest extent possible that allows for thorough investigation and compliance with all legally required disclosures.

If there is any conflict between the provisions of this policy, including definitions, or those used in the Education Code, including but not limited to Section 44110 et seq., the statutory provisions shall control.

I. TITLE

This policy is adopted pursuant to Education Code Section 44110 et seq., and shall be known as the "AIMS Whistleblower Protection Policy."

II. PURPOSE

It is the policy of AIMS to encourage individuals to disclose improper governmental activities and to submit written complaints that allege acts or attempted acts of interference, reprisal, retaliation, threats, coercion or intimidation against individuals who disclose improper governmental activities.

The Superintendent or designee shall endeavor to correct any and all abuses resulting from improper governmental activities, and to protect those who come forward to report improper governmental activities.

To assure the reporting of any activity that threatens the efficient administration of AIMS, complaints that allege improper governmental activities shall be kept confidential to the highest

extent possible that allows for thorough investigation and compliance with all legally required disclosures.

If there is any conflict between the provisions of this policy, including definitions, or those used in California Education Code Section 44110 et seq., the statutory provisions shall control.

III. DEFINITIONS

To assist in the understanding of this policy, the following terms shall be defined as follows:

A. "Any person" includes officials; classified, certificated, unrepresented, and confidential employees, and applicants for AIMS employment; as well as a contractor or individual employed by a contractor.

B. "Board" means the AIMS Board of Education.

C. "Complaint" means the written complaint submitted under penalty of perjury alleging actual or attempted acts of reprisal, retaliation, threats, coercion, intimidation, interference, or similar improper acts directed at the complainant because of the complainant's protected disclosure.

D. "Disciplinary action" means any tangible adverse employment action, including, without limitation, the termination of an employee.

E. "Improper governmental activity" is defined as any activity by an AIMS department, or by an employee, official, or contractor that is undertaken in the performance of the employee, official, or contractor's duties, whether or not such action is within the scope of the employee, official, or contractor's duties, and which:

1. violates any State or Federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of AIMS property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, discrimination, misuse of AIMS property and facilities, or willful omission to perform duty, or
2. violates any AIMS policy, procedure, rule or regulation established by the Board, or
3. is a substantial and specific danger to public health or safety, or
4. represents, intentionally and inaccurately, information related to the financial health of the District and that (i) is relied on by the Governing Board, the Superintendent, or other District or site administrators, (ii) does so with conscious and voluntary disregard of the need to use reasonable care, and (ii) is likely to cause foreseeable harm to the District including but not limited to financial harm or reputational harm.

F. "Official Agent" means the Ombudsperson, a school site administrator, a member of the Board, the Superintendent, or a licensed attorney within the Office of the General Counsel.

G. "Protected disclosure" means a good faith written communication that alleges or demonstrates an intention to disclose information that may evidence either of the following:

1. An improper governmental activity.
2. Any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition. A disclosure made in connection with an employee, official, or contractor's assigned normal duties is not protected.

H. "Superintendent" is defined as the Superintendent for AIMS

I. "Use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, performance, evaluation, suspension, or other disciplinary action.

IV. REPORTING IMPROPER GOVERNMENTAL ACTIVITIES AND MAKING PROTECTED DISCLOSURES

A. Reporting Improper Governmental Activities

Any person may make a protected disclosure pursuant to this policy.

B. Where and How to Make a Protected Disclosure

1. Officials, classified, certificated, unrepresented, and confidential employees, and contractors must make a protected disclosure with the Ombudsperson.

2. Applicants for AIMS employment must make a protected disclosure directly to the Ombudsperson

V. PROTECTION

A. Reprisal, Retaliation, Threats, Coercion, Intimidation or Interference with the Right to Report Information of Improper Governmental Activities Prohibited.

No AIMS official or employee may directly or indirectly use or attempt to use the official authority or influence of his or her position or office to interfere with the right of a person to make a protected disclosure. No AIMS official or employee may intentionally engage in acts of reprisal,

retaliation, threats, coercion or similar acts against a person as a result of his or her providing, or attempting to provide, such information or refusing to obey an illegal order.

B. Filing a Written Complaint of Retaliation

1. When a protected disclosure has been made under the procedures set forth in this policy and the complainant becomes the subject of acts of actual or attempted reprisal, retaliation, interference, intimidation, coercion or threats, a complaint may be filed with the Ombudsperson. Any complaint filed with the Ombudsperson must be filed within six (6) months of the alleged act or threat of interference or retaliation.

The complainant may also file a copy of the complaint with local law enforcement in accordance with Education Code section 44114. Such a complaint filed with local law enforcement shall be filed within twelve (12) months of the most recent act that is the subject of the complaint. Filing a complaint with local law enforcement by itself is not sufficient to put AIMS on notice of the complaint or the contents of the complaint.

2. In order for a complaint of actual or attempted acts of interference, intimidation, reprisal, retaliation, threats or coercion to be accepted by the Ombudsperson, the complainant must have made the protected disclosure with an official agent. An exception shall be made where the complainant presents a preponderance of evidence that the complainant was prevented from providing information by intimidation or interference. The General Counsel, in consultant with Ombudsperson, will determine if the evidence is sufficient in his or her sole discretion. If the complaint or the protected disclosure involves the General Counsel, the Superintendent will determine if the evidence is sufficient in his or her sole discretion.

C. Investigation

1. Upon receiving a written complaint alleging retaliation, the Ombudsperson shall refer it to the General Counsel for investigation. However, if the complaint alleges that the General Counsel interfered or took the retaliatory action, then the Ombudsperson shall request that the Superintendent appoint a designee to investigate.

2. The General Counsel or the General Counsel's designee shall determine issues of timeliness and where warranted, investigate complaints from any person alleging actual or attempted acts of reprisal, interference, intimidation, retaliation, threats, coercion or similar acts.

3. The investigation and findings shall be limited to the interference, reprisal or retaliation aspect of the complaint only.

4. Before final findings are made, the General Counsel or the General Counsel's designee will provide a copy of the complaint and any documents upon which the General Counsel or the General Counsel's designee intends to rely in reaching findings to the person accused of interference, intimidation, reprisal, retaliation, threats, or coercion. That person accused will be

provided the opportunity to respond to the complaint and to file a written statement, which will become part of the record.

5. If, for any reason, the General Counsel or the General Counsel's designee's activities with respect to a complaint are terminated before findings are sent to the Superintendent or designee, the complaint will be sealed and will be released only to the Ombudsperson, Superintendent, or Board and as required by law.

D. Decision

1. The General Counsel or the General Counsel's designee shall present findings of the investigation to the Superintendent or designee, who shall reach a decision regarding the complaint and shall communicate that decision to the complainant and to the person or persons accused of violating this policy. The decision by the Superintendent or designee will include any appropriate relief for the complainant but will not describe any disciplinary action that may be taken against the person or persons accused of violating this policy.

2. For any complaint that alleges that the General Counsel interfered or took the retaliatory action, the Superintendent's designee identified in Section C.1 shall present the complaint to the Superintendent or designee, who shall reach a decision regarding the complaint and shall communicate that decision to the complainant and to the General Counsel. The decision by the Superintendent or designee will include any appropriate relief for the complainant but will not describe any disciplinary action that may be taken against the General Counsel.

3. If the complaint alleges that the Superintendent interfered or took the retaliatory action, the General Counsel shall present the complaint to the Board, who shall reach a decision regarding the complaint and shall direct the General Counsel to communicate that decision to the complainant and to Superintendent. The Board's decision will include any appropriate relief for the complainant but will not describe any disciplinary action that may be taken against the Superintendent.

4. The provisions of Education Code section 44114(e) shall govern any decision.

E. Discipline

Any official found to have engaged in actual or attempted acts of reprisal, retaliation, threats, coercion, intimidation, interference, or similar improper acts directed at a complainant because of the complainant's protected disclosure resulting from a decision in response to a complaint may be subject to censure by the Governing Board.

Any AIMS employee found to have engaged in actual or attempted acts of reprisal, retaliation, threats, coercion, intimidation, interference, or similar improper acts directed at a complainant because of the complainant's protected disclosure resulting from a decision in response to a

complaint shall be subject to discipline in accordance with existing and applicable AIMS personnel policies, contract agreements, and applicable laws.

F. Appeal of the Decision

A decision of the Superintendent or designee may only be appealed to the Board of Education if such an appeal is permitted pursuant to existing, applicable AIMS personnel policies and collective bargaining agreements and applicable laws. A decision of the Board may not be appealed.

G. Annual Report

The Ombudsperson shall submit an annual report of actions taken under this policy to the Board of Education. The report should include complaints received and acted on during the fiscal year (July 1 through June 30) and shall not include any details otherwise prohibited by applicable personnel policies, contract agreements and applicable laws.

