

COMPREHENSIVE LOCAL PLAN FOR SPECIAL EDUCATION

Definitions

Free appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the California Department of Education, including the requirements of 34 CFR 300.1-300.818; include appropriate preschool, elementary school, or secondary school education for individuals between the ages of 3 and 21; and are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320-300.324. (Education Code 56040; 34 CFR 300.17, 300.101, 300.104)

Least restrictive environment means that, to the maximum extent appropriate, students with disabilities, including individuals in public or private institutions or other care facilities, be educated with individuals who are nondisabled, including the provision of nonacademic and extracurricular services and activities. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (Education Code 56040.1; 34 CFR 300.107, 300.114, 300.117)

Elements of the Local Plan

The local plan developed by the Special Education Local Plan Area (SELPA) shall include, but not be limited to: (Education Code 56122, 56205, 56206)

1. Policies, procedures, and programs, that are consistent with state laws, regulations, and policies and 20 USC 1412(a), 20 USC 1413(a)(1), and 34 CFR 300.201 governing the following:
 - a. Free appropriate public education
 - b. Full educational opportunity
 - c. Child find and referral
 - d. Individualized education programs, including development, implementation, review, and revision
 - e. Least restrictive environment

Comprehensive Local Plan for Special Education (continued)

- f. Procedural safeguards
- g. Annual and triennial assessments
- h. Confidentiality
- i. Transition from the Infants and Toddlers with Disabilities programs pursuant to 20 USC 1431 to the preschool program
- j. Children in private schools
- k. Compliance assurances, including general compliance with the federal Individuals with Disabilities Education Act (20 USC 1400-1482), Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794), the federal Americans with Disabilities Act of 1990 (42 USC 12101-12213), related federal regulations, and Education Code 56000-56865
- l. A description of the governance and administration of the local plan in accordance with Education Code 56205(a)(12)
- m. Personnel qualification to ensure that personnel, including special education teachers and personnel and paraprofessionals are appropriately and adequately prepared and trained in accordance with Education Code 56058 and 56070 and 20 USC 1412(a)(14) and 1413(a)(3)
- n. Performance goals and indicators
- o. Participation in state and districtwide assessments, including assessments described in 20 USC 6301 et seq. and alternate assessments in accordance with 20 USC 1412(a)(16), and reports relating to assessments
- p. Supplementation of state, local, and other federal funds, including nonsupplantation of funds
- q. Maintenance of financial effort
- r. Opportunities for public participation before adoption of policies and procedures
- s. Suspension and expulsion rates

Comprehensive Local Plan for Special Education (continued)

- t. Access to instructional materials by blind individuals with exceptional needs and others with print disabilities in accordance with 20 USC 1412(a)(23)
 - u. Overidentification and disproportionate representation by race and ethnicity of children as individuals with exceptional needs, including children with disabilities with a particular impairment described in 20 USC 1401 and 1412(a)(24)
 - v. Prohibition of mandatory medication use pursuant to Education Code 56040.5 and 20 USC 1412(a)(25)
- 2. An annual budget plan, including descriptions of the SELPA's allocation plan in accordance with Education Code 56836-56845, all revenues by revenue source received by the SELPA specifically for the purpose of special education, a breakdown of the distribution of funds to each local educational agency (LEA) within the SELPA, projected total special education expenditures by each LEA, projected total expenditures by the SELPA and the LEAs within the SELPA, projected funding to be received specifically for regionalized operations, and a breakdown of projected SELPA operating expenditures
- 3. An annual service plan, describing the services to be provided by each LEA, regardless of whether the LEA participates in the local plan, including the nature of the services and the physical location at which the services will be provided. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.
- 4. Beginning July 1, 2021~~3~~, an annual assurances support plan to demonstrate how the SELPA and its participating agencies are coordinating for purposes of assuring effective outcomes for students with disabilities, including a description of:
 - a. How the governing board of the SELPA will support each participating district in achieving the goals, actions, and services identified in its local control and accountability plan
 - b. How the governing board of the SELPA will connect any participating district in need of technical assistance to the statewide system of support
 - c. The services, technical assistance, and support the SELPA will provide to meet the required policies, procedures, and programs specified in Education Code 56205

Comprehensive Local Plan for Special Education (continued)

5. A description of programs for early childhood special education from birth through five years of age
6. A description of the method by which members of the public, including parents/guardians of individuals with disabilities who are receiving services under the plan, may address questions or concerns pursuant to Education Code 56205
7. A description of a dispute resolution process, including mediation and arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the local plan
8. Verification that the plan has been reviewed by the community advisory committee in accordance with Education Code 56205 and that the committee had at least 30 days to conduct this review before submission of the local plan to CDE
9. A description of the process being utilized to refer students for special education instruction pursuant to Education Code 56303
10. A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools, the method of ensuring that all requirements of each student's IEP are being met, and a method for evaluating whether the student is making appropriate educational progress
11. A description of how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve students in isolated sites and maximizes the opportunities to serve students in the least restrictive environment

The local plan, annual budget plan, annual service plan, and annual assurances support plan shall be written in language that is understandable to the general public. They shall be adopted at a public hearing of the SELPA, for which notice of the hearing shall be posted in each school in the SELPA at least 15 days before the hearing. (Education Code 56205)

Availability of the Plan

The Superintendent or designee shall post on the district's web site the approved local plan, annual budget plan, annual service plan, and annual assurances support plan and any updates or revisions to the plans. A complete copy of the local plan, annual budget plan, annual service plan, annual assurances support plan, and policies and procedures shall be held on file in the district office and shall be accessible to any interested party. (Education Code 56205.5)

Regulation
approved: 11/10/2020

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

PROPOSED REVISED BOARD POLICY

Business and Non-instructional Operations

BP 3110(a)

TRANSFER OF FUNDS BETWEEN CATEGORIES; AMENDMENTS

The Governing Board recognizes its responsibility to monitor the district's fiscal practices to ensure accountability regarding the expenditure of public funds and compliance with legal requirements.

The total amount budgeted by the district for each major classification of expenditures, as listed in the California Department of Education's budget forms, shall be the maximum amount which the district may expend for that classification for the school year. (Education Code 42600)

However, when it is in the best interest of the district, the Board may:

1. At any time, adopt a written resolution providing for transfers from the designated fund balance or the unappropriated fund balance to any expenditure classification or between classifications. The resolution shall be filed with County Superintendent of Schools and the County Auditor. (Education Code 42600)
2. Direct the temporary transfer of monies held in any district fund or account to another fund or account as necessary for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. No more than 75 percent of the maximum amount held in any fund or account during the current fiscal year may be transferred. Amounts transferred shall be repaid in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. (Education Code 42603)

For the 2020-21 and 2021-22 fiscal years only, if the state defers any payments owed to districts, the Board may direct the temporary transfer of up to 85 percent of the maximum amount held in any fund or account during the current fiscal year for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. Prior to exercising this authority, the Board shall hold a public hearing and adopt a resolution authorizing such transfer. (Education Code 42603.1)

3. At the close of a school year, request that the County Superintendent make transfers between the designated fund balance or the unappropriated fund balance and any expenditure classification(s), or balance any expenditure classifications of the district budget as necessary for the payment of obligations incurred during that school year. (Education Code 42601)

Transfer of Funds Between Categories; Amendments (continued)

4. If any special reserve funds that are maintained for capital outlay or other purposes pursuant to Education Code 42442 are not actually encumbered for ongoing expenses, transfer those monies into the general fund for the general operating purposes of the district. If any monies remain in the special reserve fund at the conclusion of a project, the Board may submit a written request to the County Superintendent, Auditor, and Treasurer to discontinue the special reserve fund and transfer those monies to the district's general fund. (Education Code 42841-42843)
5. Transfer monies between other funds or accounts when authorized by law.

Policy
adopted: 10/22/1991
Revised: 06/28/2011; 04/17/2012
Revised: 11/18/2014

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

FEDERAL GRANT FUNDS

The Governing Board recognizes the district's responsibility to maintain fiscal integrity and transparency in the use of all funds awarded through federal grants. The district shall comply with all requirements detailed in any grant agreement with an awarding agency and with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards specified in 7 2 CFR 200.0-200.521 and any stricter state laws and district policy.

Any goods or services purchased with federal funds shall be reasonable in cost and necessary for the proper and efficient performance or administration of the program.

The Superintendent or designee shall ensure that the district's financial management systems and procedures provide for the following: (2 CFR 200.302)

1. Identification in district accounts of each federal award received and expended and the federal program under which it was received
2. Accurate, current, and complete disclosure of the financial ~~and performance results of each federal award or program in accordance with the reporting requirements of 2 CFR 200.327 and 200.328~~ results of each federal award or program in accordance with the reporting requirements of 2CFR 200.328 and 200.329
3. Records and supporting documentation that adequately identify the source and application of funds for federally funded activities, including information pertaining to federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest
4. Effective ~~controls~~ control over and accountability for all funds, property, and other assets and assurance that all assets are used solely for authorized purposes
5. Comparison of actual expenditures with budgeted amounts for each federal award
6. Written procedures to implement provisions governing payments as specified in 2 CFR 200.305
7. Written procedures for determining the allowability of costs in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the federal grant award

Federal Grant Funds (continued)

The Superintendent or designee shall develop and implement appropriate internal control processes to reasonably assure that transactions are properly executed, recorded, and accounted for so that the district can prepare reliable financial statements and federal reports, maintain accountability over assets, and demonstrate compliance with federal laws, regulations, and conditions of the federal award. (2 CFR 200.61, 200.62, 200.303)

Equipment purchased with federal funds shall be properly inventoried and adequately maintained to safeguard against loss, damage, or theft of the property.

All staff involved in the administration or implementation of programs and activities supported by federal funds shall receive information and training on the allowable use of federal funds, purchasing procedures, and reporting processes commensurate with their duties.

The district shall submit financial and performance reports to the awarding agency in accordance with the schedule and indicators required for that federal grant by law and the awarding agency. As required, such reports may include a comparison of actual accomplishments to the objectives of the federal award, the relationship between financial data and performance accomplishments, the reasons that established goals were not met if applicable, cost information to demonstrate cost effective practices, analysis and explanation of any cost overruns or high unit costs, and other relevant information. The final performance report shall be submitted ~~within 90 days~~ no later than 120 calendar days after the ending date of the grant. (2 CFR 200.301, 200.328, 200.329)

*Legal Reference:*EDUCATION CODE*42122-42129 Budget requirements*CODE OF FEDERAL REGULATIONS, TITLE 2*180.220 Amount of contract subject to suspension and debarment rules**200.0-200.521 Federal uniform grant guidance, especially:**200.1-200.99 Definitions**200.100-200.113 General provisions**200.317-200.326 Procurement standards**200.327-200.329 Monitoring and reporting**200.333-200.337 Record retention**200.400-200.475 Cost principles**200.500-200.521 Audit requirements*CODE OF FEDERAL REGULATIONS, TITLE 34*76.730-76.731 Records related to federal grant programs*CODE OF FEDERAL REGULATIONS, TITLE 48*2.101 Federal acquisition regulation; definitions*

Policy
adopted: 11/15/2016

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

FEDERAL GRANT FUNDS

To ensure the lawful expenditure of any federal formula or discretionary grant funds awarded to the district, the Superintendent or designee shall comply with the requirements of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"), as contained in 2 CFR 200.0-200.521 and Appendices I-XII.

Allowable Costs

Prior to obligating or spending any federal grant funds, the Superintendent or designee shall determine whether a proposed purchase is an allowable expenditure ~~of federal funds~~ in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the ~~federal grant~~ award. ~~He/she~~ The Superintendent or designee shall also determine whether the expense is a direct or indirect cost as defined in 2 CFR 200.413 and 200.414 and, if the purchase will benefit other programs not included in the grant award, the appropriate share to be allocated to the federal grant.

The Superintendent or designee shall review and approve all transactions involving federal grant funds and shall ensure the proper coding of expenditures consistent with the California School Accounting Manual.

Period of Performance

All obligations of federal funds shall occur on or between the beginning and ending dates of the grant project and shall be paid no later than ~~90 days~~ 120 calendar days after the end of the funding period, unless specifically authorized by the grant award to be carried over beyond the initial term of the grant. (2 CFR 200.77, 200.308, 200.309, 200.3434)

Procurement

~~On or before July 1, 2017, or such later date as may be approved in the Uniform Guidance, the Superintendent or designee shall comply with the standards specified in 2 CFR 200.317-200.326 and Appendix II of Part 200 when procuring goods and services needed to carry out a federal grant as well as any more restrictive state laws and district policies concerning the procurement of goods and services.~~

When procuring goods and services with a federal grant, the Superintendent or designee shall comply with the standards contained in 2 CFR 200.317-200.327 and Appendix II of Part 200, and with any applicable state bidding or procurement law or district policy that is more restrictive.

Federal Grant Funds (continued)

As appropriate to encourage greater economy and efficiency, the Superintendent or designee shall avoid acquisition of unnecessary or duplicative items, give consideration to consolidating or breaking out procurements, analyze lease versus purchase alternatives, consider entering into an interagency agreement for procurement of common or shared goods and services, and/or use federal excess or surplus property. (2 CFR 200.318)

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

1. Any purchase of supplies or services that does not exceed the "micro-purchase" threshold ~~specified in~~ established by the district in accordance with 48 CFR 2.101 may be awarded without soliciting competitive quotes, provided that the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)
2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code 20111, the Superintendent or designee shall utilize "small-purchase" procedures that include obtaining price or rate quotes from an adequate number of qualified sources. (2 CFR 200.320)
3. Contracts for goods or services over the bid limits required by Public Contract Code 20111 shall be awarded pursuant to California law and AR 3311 – Bids, unless exempt from bidding under the law.
4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)
5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available exclusively from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of a number of sources. (2 CFR 200.320)
6. Time and materials type contracts may be used only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract ~~whose~~ for which the cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (200.328 2 CFR 200.318)

Federal Grant Funds (continued)

For any purchase of \$25,000 or more, the Superintendent or designee shall verify that any vendor which is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.2134)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand which must be met by offers. In addition, every solicitation shall identify all requirements which the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

The Superintendent or designee shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

The Superintendent or designee shall ensure that all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (2 CFR 200.3267)

Capital Expenditures

The Superintendent or designee shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.12, 200.13, 200.20, 200.33, 200.48, 200.58, 200.89, 200.313, 200.439)

Conflict of Interest

No Governing Board members, district employees, or district representatives shall not participate in the selection, award, or administration of a contract supported by federal funds if ~~he/she has~~ they have a real or apparent conflict of interest, such as when ~~he/she~~ they or a member of ~~his/her~~ their immediate family, ~~his/her~~ their partner, or an organization which employs or is about to employ any of them has a financial or other interest in or a tangible personal benefit from a firm

Federal Grant Funds (continued)

considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BB 9270 – Conflict of Interest.

Persons involved in the selection, award, or administration of a contract supported by federal funds shall be subject to discipline for any violation of conflict of interest standards. (2 CFR 200.318)

Cash Management

The Superintendent or designee shall ensure the district's compliance with 2 CFR 200.305 pertaining to payments and cash management, including compliance with applicable methods and procedures that minimize the time elapsing between the transfer of funds to the district and the district's disbursement of funds. (2 CFR 200.305)

When authorized by law, the district may receive advance payments of federal grant funds, limited to the minimum amounts needed and timed in accordance with the actual immediate cash requirements of the district for carrying out the purpose of the program or project. Except under specified conditions, the district shall maintain the advance payments in an interest-bearing account. The district shall remit interest earned on the advanced payment to the awarding agency on an annual basis, but may retain interest amounts specified in 2 CFR 200.305 for administrative expenses. (2 CFR 200.305)

When required by the awarding agency, the district shall instead submit a request for reimbursement of actual expenses incurred. The district may also request reimbursement as an alternative to receiving advance payments. (2 CFR 200.305)

The Superintendent or designee shall maintain source documentation supporting the expenditure of federal funds, such as invoices, time sheets, payroll stubs, or other appropriate documentation.

Personnel

~~All district employees who are paid in full or in part with federal funds, including employees whose salary is paid with state or local funds but is used to meet a required match or in-kind contribution to a federal program, shall document the amount of time they spend on grant activities. (2 CFR 200.430)~~

All district employees who are paid in full or in part with federal funds shall document the amount of time they spend on grant activities. Such records shall be incorporated into the

Federal Grant Funds (continued)

official records of the district and shall be subject to a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated in accordance with 2 CFR 200.430. (2 CFR 200.430)

Salaries and wages of employees whose salary is paid with state or local funds but are used to meet a cost-sharing or matching requirement of the federal grant shall be documented in the same manner as salaries and wages claimed for reimbursement under a federal grant. (2 CFR 200.430)

Records

Except as otherwise provided in 2 CFR 200.3334, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. (2 CFR 200.3334)

Audits

Whenever the district expends \$750,000 or more in federal grant funds during a fiscal year, it shall arrange for either a single audit or a program-specific audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501)

The Superintendent or designee shall ensure that the audit meets the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

In the event that the audit identifies any deficiency, the Superintendent or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate that the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511)

Regulation
approved: 11/15/2016
Revised: 05/08/2018

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

LEASE-LEASEBACK CONTRACTS

The district may lease currently owned district property to any person, firm, or corporation for a minimum of \$1 per year for a term not to exceed 99 years, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17403, 17406)

Before the district enters into such a lease or agreement, it shall have available a site upon which a building may be constructed for use by the district, shall have complied with requirements related to the selection and approval of sites, and shall have prepared and adopted plans and specifications for the building that have been approved in accordance with Education Code 17280-17316. (Education Code 17402)

Any lease-leaseback contract shall be awarded through a competitive "best value" procurement process whereby a person, firm, or corporation is selected on the basis of objective criteria for evaluating the qualifications of proposers, with the resulting selection representing the best combination of price and qualifications. (Education Code 17400, 17406)

To make this determination, the district shall use the following procedures: (~~Education Code 17400, 17406~~) (Education Code 17406; Public Contract Code 2600)

1. Request for Sealed Proposals: The Superintendent or designee shall prepare a request for sealed proposals which shall include:
 - a. An estimate of the project's price
 - b. A clear, precise description of any preconstruction services that may be required and the facilities to be constructed
 - c. The key elements of the contract to be awarded
 - d. A description of the format that proposals shall follow and the elements they shall contain
 - e. The standards the district will use in evaluating proposals and the qualifications of the proposers, including:
 - i. Relevant experience
 - ii. Safety record

Lease-Leaseback Contracts (continued)

- iii. Price proposal, including, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district
 - iv. Whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract
 - v. For each scored criterion, the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score
 - vi. Other factors established by the district
 - f. The date on which proposals are due
 - g. The timetable the district will follow in reviewing and evaluating proposals
 - h. A statement that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603
2. Notice: At least 10 days before the date for receipt of the proposals, the Superintendent or designee shall give notice of the request for sealed proposals using both of the following methods:
- a. Providing notice at least once a week for two weeks in a local newspaper of general circulation pursuant to Public Contract Code 20112
 - b. Providing notice in a trade paper of general circulation published in the county where the project is located

The Superintendent or designee also may post the notice on the district's web site or through an electronic portal.

3. Prequalification: A proposer shall be prequalified in accordance with Public Contract Code 20111.6(b)-(m) in order to submit a proposal. Any electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements.

Lease-Leaseback Contracts (continued)

4. ~~Evaluation Criteria: The request for sealed proposals shall identify all criteria that the district will consider in evaluating the proposals and qualifications of the proposers, including relevant experience, safety record, price proposal, and other factors specified by the district. The price proposal shall include, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district.~~

~~The request for sealed proposals shall specify whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract. For each scored criterion, the district shall identify the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score.~~

5. 4. Evaluation of Proposals: All proposals received shall be reviewed to determine whether they meet the format requirements and the standards specified in the request for sealed proposals. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.
6. 5. Award of Contract: The award of the contract shall be made by the ~~Governing~~ Board to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.

If the selected proposer refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the district. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score.

Upon issuance of a contract award, the district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

Lease-Leaseback Contracts (continued)

7. 6. Rejection of Proposals: At its discretion, the Board may reject all proposals and request new proposals.

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

Skilled and Trained Workforce

Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. (Education Code 17407.5; Public Contract Code 2602)

Skilled and trained workforce means that all the workers performing the work are either skilled journeypersons or apprentices registered in a stat-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to the plan. (Public Contract Code 2602)

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

Legal Reference:

EDUCATION CODE

Lease-Leaseback Contracts (continued)

~~17400 Definitions~~
~~17406 Lease-leaseback contract~~
~~17407.5 Use of a skilled and trained workforce~~
~~PUBLIC CONTRACT CODE~~
~~20111.6 Prequalification procedures~~
~~20112 Notices~~
~~COURT DECISIONS~~
~~McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)~~
~~Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261~~

DESIGN-BUILD CONTRACTS

The Governing Board may approve a contract with a single entity for both design and construction of any school facility in excess of \$1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

Design-build documents shall not include provisions for long-term project operations, but may include operations during a training or transition period. (Education Code 17250.25)

Procedures for Awarding the Contract

The procurement process for design-build projects shall be as follows: (Education Code 17250.25, 17250.35; Public Contract Code 2600)

1. Performance Specifications: The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:
 - a. The size, type, and desired design character of the project
 - b. Performance specifications that cover the quality of materials, equipment, and workmanship
 - c. Preliminary plans or building layouts
 - d. Any other information deemed necessary to describe adequately the district's needs

The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. Prequalification: The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:
 - a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity

Design-Build Contracts (continued)

- b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors
- c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25
- d. A notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603

The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

~~A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce, as defined in Education Code 17250.25, to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract.~~

- 3. Request for Proposals: The district shall prepare a request for proposals (RFP) that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The RFP shall include the information identified in items ~~#2a and 2b~~ #2a, 2b, and 2d above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method for a project, the district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the district to ensure that any discussions or negotiations are conducted in good faith.
- 4. Selection Based on Low Bid: For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.

Design-Build Contracts (continued)

5. Selection Based on Best Value: For those projects utilizing best value as a selection method, the following procedures shall be used:
- a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years.
 - b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.
 - c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.
 - d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

Skilled and Trained Workforce

A Design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17250.25; Public Contract Code 2602)

Skilled and trained workforce means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

Design-Build Contracts (continued)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance and the district's response to that plan. (Public Contract Code 2602)

Legal Reference:

EDUCATION CODE

17250.10-17250.55 Design-build contracts

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Any claim against the district for money or damages shall be filed and acted upon in accordance with the Government Claims Act (Government Code 810-996.6) or other applicable law. Claims that are specifically excepted from the Government Claims Act by Government Code 905 and are not governed by any other statute or regulation may be filed and acted upon in accordance with district-established procedures pursuant to Government Code 935.

Unless otherwise provided by law, a written claim shall be presented to and acted upon by the Governing Board in accordance with such procedures prior to filing a lawsuit against the district for money or damages. prior to filing a lawsuit against the district for money or damages, a written claim shall be filed in accordance with the following administrative regulation.

Time Limitations

The following time limitations apply to claims against the district:

- ~~1. Claims for money or damages relating to childhood sexual abuse or any other causes of action specifically excepted from the Government Claims Act by Government Code 905 and for which a statute or regulation provides a claims presentation procedure shall be filed in accordance with the applicable governing statute or regulation. (Government Code 905, 935)~~
- ~~2. Claims for money or damages relating to a cause of action for death or for injury to person and personal property shall be presented to the Board no later than six months after the accrual of the cause of action. (Government Code 911.2)~~
- ~~3. Claims for money or damages relating to any other cause of action shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)~~

The following time limitations apply to the presentation of claims for money or damages against the district:

1. Claims relating to a cause of action for death or for injury to a person, personal property, or growing crops shall be presented to the Board not later than six months after the accrual of the cause of action. (Government Code 911.2)
2. Claims relating to any other cause of action subject to the Government Claims Act shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)
3. Claims relating to childhood sexual assault and other causes of action which are specifically excepted from the Government Claims Act by Government Code 905 but are subject to a claims presentation procedure in another a statute or regulation shall be

Claims and Actions Against the District (continued)

presented to the Board in accordance with the applicable governing statute or regulation.
(Government Code 905)

4. Claims relating to any cause of action which is specifically excepted from the Government Claims Act by Government Code 905 but is not governed by any other claim presentation statute or regulation shall be presented to the Board within the time limits specified in items #1 and 2 above, depending on the applicable cause of action.
(Government Code 911.2, 935)

Receipt of Claims

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the district office or deposited in a post office, mailbox, subpost office, substation, mail chute or other similar facility maintained by the U.S. Government in a sealed envelope properly addressed to the district office with postage paid or when otherwise actually received in the district office or by the Board secretary or clerk. (Government Code 915, 915.2)

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's Joint Powers Authority or insurance carrier in accordance with the applicable conditions of coverage.

Review of Contents of the Claim

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant
2. The post office address to which the person presenting the claim desires notices to be sent
3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted
4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim
5. The name(s) of the district employee(s) causing the injury, damage, or loss if known
6. The amount claimed if it totals less than \$10,000, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds \$10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a limited civil case. of \$25,000 or less.
7. The signature of the claimant or the person acting on ~~his/her~~ the claimant's behalf

Claims and Actions Against the District (continued)

Notice of Claim Insufficiency

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, personally deliver or mail to the claimant, at the address stated in the claim or application, a notice that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendments to Claims

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Late Claims

~~For claims under item # 2 in the section "Time Limitations" above any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim. Such claim and the application to present a late claim shall be presented not later than one year after the accrual of the cause of action. (Government Code 905, 911.4)~~

When a claim that is required to be presented not later than six months after the accrual of the cause of action, as specified in the section "Time Limitations" above, is not presented within that time, an application to present a late claim may be presented to the Board, in the manner specified in Government Code 915 and 915.2, within a reasonable time not to exceed one year after the accrual of the cause of action. The application shall include the proposed claim and shall state the reason for the delay in presenting the claim. (Government Code 911.4, 915, 915.2)

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

The application to file a late claim shall state the reason for the delay. The Board shall grant or deny the application to present a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

Claims and Actions Against the District (continued)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.
2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.
3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason the person failed to present the claim.
4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in substantially the same form as set forth in Government Code 911.8 and in the manner specified in Government Code 915.4. (Government Code 911.8, 915.4)

If the Board does not take action on the application to present a late claim within 45 days, ~~it~~ the application shall be deemed to have been denied on the 45th day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Action on Claims

Within 45 days after the presentation or amendment of a claim, the Board (or Superintendent or designee, if delegated this authority) shall take action on the claim. This time limit may be extended by written agreement between the district and the claimant before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not commenced or been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.

Claims and Actions Against the District (continued)

3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Board or its designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall ~~either be personally delivered or mailed to the address stated in the claim or application~~ be provided in the manner specified in Government Code 915.4. (Government Code 913, 915.4)

Regulation

approved: 10/22/1991

Revised: 11/2010; 09/25/2018

Revised: 11/13/2018; 09/24/2019

WEST COVINA UNIFIED SCHOOL DISTRICT

West Covina, California

PROPOSED REVISED BOARD POLICY

Business and Non-instructional Operations

BP 3452(a)

STUDENT ACTIVITY FUNDS

The Governing Board recognizes that student organizations can provide students with an opportunity to conduct worthwhile cocurricular activities while helping students learn about effective financial practices and develop leadership and management skills. To that end, the Board may approve the formation of associated student body organizations which are composed entirely of students, operate under the oversight of the principal or other district-employed advisor, and are subject to the control and regulation of the Board. Student organizations may raise and spend funds to support activities that promote the general welfare, morale, and educational experiences of the student body.

Fundraising

At the beginning of each school year, each principal or designee shall submit to the Superintendent or designee a list of the fundraising events that each student organization proposes to hold that year. The Superintendent or designee shall review the proposed events and determine whether the events contribute to the educational experience and do not conflict with or detract from the school's educational program. When reviewing proposed events, the Superintendent or designee shall consider the effects of the activities on student health and safety, evaluate the risk of liability to the district and ensure that the proposed activities are in compliance with law, Board policy, and administrative regulation.

Management and Reporting of Funds

Student body funds shall be managed in accordance with law, regulations, Board policies, and sound business procedures designed to encourage the largest possible educational return to students without sacrificing the security of funds.

The Superintendent or designee shall develop internal control procedures to safeguard the organization's assets, promote the success of fundraising ventures, provide reliable financial information, protect employees and volunteers from accusations of impropriety, and reduce the risk and promote the detection of fraud and abuse. These procedures shall detail the oversight of activities and funds including, but not limited to, the appropriate role and provisions of training for staff and students, parameters for events on campus, appropriate and prohibited uses of funds, and accounting and record-keeping processes, including procedures for handling questionable expenditures.

Student Activity Funds (continued)

The principal or designee shall be responsible for the proper conduct of all student organization financial activities. The budget adopted by the student body organization should serve as the financial plan for the school year and shall be submitted to the Superintendent or designee at the beginning of each school year. The Superintendent or designee shall monitor the budget and periodically review the organization's use of funds to ensure compliance with the district's internal control procedures.

Funds derived from the student body shall be expended according to procedures established by the student organization. All expenditures must be approved by a Board-designated employee or official, the certificated employee who is the designated student organization advisor, and a student organization representative. (Education Code 48933)

When student body funds are expended for equipment, supplies, or activities that support the district's athletic program, the Superintendent or designee shall ensure that the expenditures are aligned with the district's commitment to provide equitable opportunities for males and females.

Because of the district's administrative and/or direct financial involvement in the assets of the student organization, the student activity fund shall be reported within the district's fund in accordance with Governmental Accounting Standards Board Statement 84.

The Board shall provide an annual audit of student organization accounts by a certified public accountant or licensed public accountant. The cost of the audit shall be paid from district funds. (Education Code 41020)

CONSULTANTS

The Governing Board authorizes the use of consultants and other independent contractors to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as independent contractors may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

As part of the contract process, the Superintendent or designee shall determine that the individual, firm, or organization is properly classified as an independent contractor. A person, ~~firm, or organization~~ providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2750.3 2775)

1. The person ~~or entity~~ is free from the control and direction of the district in connection with the performance of the work.
2. The person ~~or entity~~ is performing work that is outside the usual course of the district providing educational services.
3. The person ~~or entity~~ is customarily engaged in an independently established trade, occupation, or business of the same nature as the work to be performed.

~~Specific statutory exceptions to this analysis for the determination of whether a person, firm, or organization is an independent contractor may apply. (Labor Code 2750.3)~~

The determination of whether an individual acting as a sole proprietor or a firm or other business organization is an independent contractor shall be made in accordance with Labor Code 2775-2785, as applicable.

All consultant contracts shall be brought to the Board for approval.

All qualified independent contractors shall be accorded equal opportunity for contracts regardless of actual or perceived race, color, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, ~~military and veteran status~~, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 220; Government Code 12940)

Independent contractors shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend approval of the contract.

Consultants (continued)

Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)

When employees of a public university, county office of education, or other public agency serve as consultants or independent contractors in other capacities for the district, they shall certify as part of the agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for the district.

The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of a district employee by an independent contractor. Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)

*Legal Reference:*EDUCATION CODE*220 Prohibition of discrimination**10400-10407 Cooperative improvement programs**17596 Limit on continuing contracts**35010 Control of districts; prescription and enforcement of rules**35172 Promotional activities**35204 Contract with attorney**44925 Part-time readers employed as independent contractors**45103 Classified service in districts not incorporating the merit system**45103.5 Contracts for food service consulting services**45134-45135 Employment of retired classified employee**45256 Merit system districts; classified service; positions established for professional experts on a temporary basis*GOVERNMENT CODE*12940 Unlawful employment practices**53060 Contract for special services and advice**82019 Designated employee**87302 Conflict of interest code*LABOR CODE*2750.3 ABC three-part test; employees and independent contractors*UNEMPLOYMENT INSURANCE CODE*606.5 Determination of employment status**621 Employer and employee defined*CODE OF REGULATIONS, TITLE 2*18700.3 Consultant*COURT DECISIONS*Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5th 903**S.G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal. 3d 341*

Policy
adopted: 02/11/2020

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

All Personnel

E 4112.9(a)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS

To All Employees

When/Whom to Notify: At the beginning of school year or upon employment

Education or Other Legal Code: Education Code 231.5, Govt. Code 12950, 2 CCR 11024

Board Policy/Administrative Regulation #: See AR 4119.11/4219.11/4319.11

Subject: The district's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually to all employees and 72 hours before pesticide application

Education or Other Legal Code: Education Code 17612

Board Policy/Administrative Regulation #: See AR 3514.2

Subject: Use of pesticide product, active ingredients, Internet address to access information

When/Whom to Notify: To all employees, prior to implementing year-round schedule

Education or Other Legal Code: Education Code 37616

Board Policy/Administrative Regulation #: See BP 6117

Subject: Public hearing on year-round implementing year-round program schedule

When/Whom to Notify: To all employees, prior to implementing alternative schedule

Education or Other Legal Code: Education Code 46162

Board Policy/Administrative Regulation #: See AR 6112

Subject: Public hearing on alternative schedule

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49013; 5 CCR 4622

Board Policy/Administrative Regulation #: See AR 1312.3; See BP 0460; See BP 3260

Subject: Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control accountability plan

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49414

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Request for volunteers to be trained to administer epinephrine auto-injectors

When/Whom to Notify: At least once per year

Education or Other Legal Code: Education Code 49414.3

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Request for volunteers to be trained to administer opioid antagonist

E 4112.9(b)
4212.9
4312.9

Employee Notifications (continued)

When/Whom to Notify: To all employees

Education or Other Legal Code: Government Code 1126

Board Policy/Administrative Regulation #: See BP 4136/4236/4336

Subject: Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

When/Whom to Notify: ~~Prior to beginning employment~~

Education or Other Legal Code: ~~Government Code 3102~~

Board Policy/Administrative Regulation #: ~~See AR 4112.3/4212.3/4312.3~~

Subject: ~~Oath or affirmation of allegiance required of disaster service workers~~

When/Whom to Notify: To all employees

Education or Other Legal Code: Govt. Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210

Board Policy/Administrative Regulation #: See BP 4020, See BP 4159/4259/4359

Subject: District's drug- and alcohol-free workplace; actions that will be taken if violated; available employee assistance programs

When/Whom to Notify: Upon employment

Education or Other Legal Code: Government Code 21029

Board Policy/Administrative Regulation #: None

Subject: Right to purchase PERS service credit for military service prior to public employment

When/Whom to Notify: Upon placement of automated external defibrillator (AED) in school, annually thereafter

Education or Other Legal Code: Health and Safety Code 1797.196

Board Policy/Administrative Regulation #: See AR 5141

Subject: Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

When/Whom to Notify: To all employees, if the district receives Tobacco-Use Prevention Education funds

Education or Other Legal Code: Health and Safety Code 104420

Board Policy/Administrative Regulation #: See AR 3513.3

Subject: District's tobacco-free schools policy and enforcement procedures

When/Whom to Notify: Annually to all employees, or more frequently if necessary

Education or Other Legal Code: Health and Safety Code 120875, 120880

Board Policy/Administrative Regulation #: See AR 4119.43/4219.43/4319.43

Subject: AIDS and hepatitis B, methods to prevent exposure

Employee Notifications (continued)

When/Whom to Notify: To all employees upon hire and other employees upon request

Education or Other Legal Code: Labor Code 230.1

Board Policy/Administrative Regulation #: See AR 4161.2/4261.2/4361.2

Subject: Rights pertaining to leaves and accommodations for victims of crime or abuse

When/Whom to Notify: To all employees, with each paycheck

Education or Other Legal Code: Labor Code 246

Board Policy/Administrative Regulation #: See AR 4161.1/4261.1/4361.1

Subject: Amount of sick leave available

When/Whom to Notify: Upon hire, in employee handbook, and upon request for parental leave

Education or Other Legal Code: Labor Code 1034

Board Policy/Administrative Regulation #: See BP 4033

Subject: The district's policy on lactation accommodation

When/Whom to Notify: To covered employees and former employees

Education or Other Legal Code: Labor Code 2800.2

Board Policy/Administrative Regulation #: See AR 4154/4254/4354

Subject: Availability of COBRA/Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage

When/Whom to Notify: To employees participating in a flexible spending account

Education or Other Legal Code: Labor Code 2810.7

Board Policy/Administrative Regulation #: None

Subject: Deadline to withdraw funds from account before the end of the plan year

When/Whom to Notify: To every new employee, either at the time employee is hired or by end of first pay period

Education or Other Legal Code: Labor Code 3551

Board Policy/Administrative Regulation #: See BP 4157.1/4257.1/4357.1

Subject: Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor

When/Whom to Notify: Within one day of receiving notice of potential exposure to COVID-19, to employees who were on the premises during the infectious period, the exclusive representative, and the employer of subcontracted employees as applicable

Education or Other Legal Code: Labor Code 6409.6

Board Policy/Administrative Regulation #: See AR 4157/4257/4357

Subject: Potential exposure to COVID-19; benefits employees may be entitled to; available leave options; protection against discrimination and retaliation; district's disinfection safety plan

E 4112.9(d)
4212.9
4312.9

Employee Notifications (continued)

When/Whom to Notify: Prior to beginning employment

Education or Other Legal Code: Penal Code 11165.7, 11166.5

Board Policy/Administrative Regulation #: See AR 5141.4

Subject: Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law

When/Whom to Notify: Upon employment, and when employee goes on specified leave

Education or Other Legal Code: Unemployment Insurance Code 2613

Board Policy/Administrative Regulation #: See AR 4154/4254/4354

Subject: Disability insurance rights and benefits

When/Whom to Notify: To all employees and job applicants

Education or Other Legal Code: 2 CCR 11023; 34 CFR 104.8, 106.9

Board Policy/Administrative Regulation #: See BP 0410, See BP 4030

Subject: District's policy on nondiscrimination and related complaint procedures

When/Whom to Notify: To all employees via employee handbook, or to each new employee

Education or Other Legal Code: 2 CCR 11091, 11095; 29 CFR 825.300

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 days' notice of need for leave when possible

When/Whom to Notify: Annually to all employees

Education or Other Legal Code: 8 CCR 3203

Board Policy/Administrative Regulation #: See AR 4157/4257/4357

Subject: The right and procedure to access the injury and illness prevention program

When/Whom to Notify: To all employees

Education or Other Legal Code: 34 CFR 106.8

Board Policy/Administrative Regulation #: See AR 4119.11/4219.11/4319.11

Subject: Nondiscrimination on the basis of sex; contact information for district's Title IX Coordinator; referral of inquiries to Title IX Coordinator and/or Office of Civil Rights

When/Whom to Notify: Annually to all employees

Education or Other Legal Code: 40 CFR 763.84, 763.93

Board Policy/Administrative Regulation #: See AR 3514

Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

Employee Notifications (continued)

To Certificated Employees

When/Whom to Notify: To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire

Education or Other Legal Code: Education Code 22455.5

Board Policy/Administrative Regulation #: See AR 4121

Subject: Criteria for membership in retirement system; right to elect membership at any time

When/Whom to Notify: Upon employment of a retired certificated individual

Education or Other Legal Code: Education Code 22461

Board Policy/Administrative Regulation #: See AR 4117.14/4317.14

Subject: Postretirement earnings limitation or employment restriction

When/Whom to Notify: To certificated employees

Education or Other Legal Code: Education Code 35171

Board Policy/Administrative Regulation #: See AR 4115, See BP 4315

Subject: District regulations related to performance evaluations

When/Whom to Notify: 30 days before last day of school year for instructional staff, or by June 30 for non-instructional certificated staff, in any year in which employee is evaluated

Education or Other Legal Code: Education Code 44663

Board Policy/Administrative Regulation #: See AR 4115

Subject: Copy of employee's evaluation

When/Whom to Notify: To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee

Education or Other Legal Code: Education Code 44664

Board Policy/Administrative Regulation #: See AR 4115

Subject: Notice and description of the unsatisfactory performance

When/Whom to Notify: By May 30, if district elects to issue reemployment notices to certificated employees

Education or Other Legal Code: Education Code 44842

Board Policy/Administrative Regulation #: See AR 4112.1

Subject: Request that the employee notify district of intent to remain in service next year

When/Whom to Notify: To certificated employees upon employment and to nonpermanent employees in July of each school year

Education or Other Legal Code: Education Code 44916

Board Policy/Administrative Regulation #: See AR 4112.1, See AR 4121

Subject: Employment status and salary

Employee Notifications (continued)

When/Whom to Notify: To probationary employees by March 15
Education or Other Legal Code: Education Code 44929.21 44929.23, 44948.5
Board Policy/Administrative Regulation #: See AR 4116
Subject: Whether or not employee is reelected for next school year

When/Whom to Notify: When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year
Education or Other Legal Code: Education Code 44934, 44934.1, 44936
Board Policy/Administrative Regulation #: See BP 4118; See AR 4118
Subject: Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice

When/Whom to Notify: To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/dismissal notice
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: See BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: See BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings
Education or Other Legal Code: Education Code 44940.5
Board Policy/Administrative Regulation #: See AR 4118
Subject: Notice of intent to dismiss 30 days from notice unless employee demands hearing

When/Whom to Notify: To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second- year probationary employees
Education or Other Legal Code: Education Code 44948.3
Board Policy/Administrative Regulation #: See AR 4118
Subject: Reasons for dismissal and opportunity to appeal

E 4112.9(g)
4212.9
4312.9

Employee Notifications (continued)

When/Whom to Notify: By March 15 when necessary to reduce certificated personnel, with final notice by May 15

Education or Other Legal Code: Education Code 44949, 44955

Board Policy/Administrative Regulation #: See BP 4117.3

Subject: Reasons for personnel reduction and employees' right to hearing; final notice of Board decision

When/Whom to Notify: On or before June 30, to temporary employee who served 75 percent of school year but will be released

Education or Other Legal Code: Education Code 44954

Board Policy/Administrative Regulation #: See BP 4121

Subject: District's decision not to reelect employee for following school year

When/Whom to Notify: To teacher, when a student engages in or is reasonably suspected of specified acts

Education or Other Legal Code: Education Code 49079

Board Policy/Administrative Regulation #: See AR 4158/4258/4358

Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To certificated employee upon change in employment status due to alleged misconduct

Education or Other Legal Code: 5 CCR 80303

Board Policy/Administrative Regulation #: See AR 4117.7/4317.7

Subject: Contents of state regulation re: report to Commission on Teacher Credentialing

To Classified Employees

When/Whom to Notify: To classified employee charged with mandatory leave of absence offense, in merit system district

Education or Other Legal Code: Education Code 44940.5

Board Policy/Administrative Regulation #: See AR 4218

Subject: Notice of intent to dismiss in 30 days

When/Whom to Notify: When classified employee is subject to disciplinary action for cause, in non-merit district

Education or Other Legal Code: Education Code 45113

Board Policy/Administrative Regulation #: See AR 4218

Subject: Notice of charges, procedures, and employee rights

Employee Notifications (continued)

When/Whom to Notify: To classified employees at least 60 days prior to layoff, or by April 29 if specially funded program that expires at end of school year

Education or Other Legal Code: Education Code 45117

Board Policy/Administrative Regulation #: See AR 4217.3

Subject: Notice of layoff and reemployment rights

When/Whom to Notify: To classified employees upon employment and classification change

Education or Other Legal Code: Education Code 45169

Board Policy/Administrative Regulation #: See AR 4212

Subject: Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek

When/Whom to Notify: To classified permanent employee whose leave is exhausted

Education or Other Legal Code: Education Code 45192, 45195

Board Policy/Administrative Regulation #: See AR 4261.1, See AR 4261.11

Subject: Exhaustion of leave, opportunity to request additional leave

When/Whom to Notify: To school bus drivers and school activity bus drivers prior to expiration of specified documents

Education or Other Legal Code: 13 CCR 1234

Board Policy/Administrative Regulation #: See AR 3542

Subject: Expiration date of driver's license, driver's and/or medical certificate; need to renew

When/Whom to Notify: To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter

Education or Other Legal Code: 13 CCR 2480

Board Policy/Administrative Regulation #: See AR 3542

Subject: Limitations on vehicle idling; consequences of not complying

When/Whom to Notify: To school bus drivers, prior to district drug testing program and thereafter upon employment

Education or Other Legal Code: 49 CFR 382.113, 382.601

Board Policy/Administrative Regulation #: See BP 4112.42/4212.42/4312.42

Subject: Explanation of federal requirements for drug testing program and district's policy

When/Whom to Notify: To school bus drivers, prior to operating a school bus

Education or Other Legal Code: 49 CFR 382.303

Board Policy/Administrative Regulation #: See BP 4112.42/4212.42/4312.42

Subject: Post accident information, procedures, and instruction

Employee Notifications (continued)

To Administrative/Supervisory Personnel

When/Whom to Notify: To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract

Education or Other Legal Code: Education Code 35031

Board Policy/Administrative Regulation #: See BP 4312.1

Subject: Decision not to reelect or reemploy upon expiration of contract or term

When/Whom to Notify: Upon request by administrative or supervisory employee transferred to teaching position

Education or Other Legal Code: Education Code 44896

Board Policy/Administrative Regulation #: See AR 4313.2

Subject: Statement of the reasons for the release or reassignment

When/Whom to Notify: By March 15 to employee who may be released/reassigned the following school year

Education or Other Legal Code: Education Code 44951

Board Policy/Administrative Regulation #: See AR 4313.2

Subject: Notice that employee may be released or reassigned the following school year

To Individual Employees Under Special Circumstances

When/Whom to Notify: Upon breach of security of district records to affected employees

Education or Other Legal Code: Civil Code 1798.29

Board Policy/Administrative Regulation #: See BP 3580

Subject: Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies

When/Whom to Notify: Prior to placing derogatory information in personnel file

Education or Other Legal Code: Education Code 44031

Board Policy/Administrative Regulation #: See AR 4112.6/4212.6/4312.6

Subject: Notice of derogatory information, opportunity to review and comment

When/Whom to Notify: To employees who volunteer to administer epinephrine auto-injector

Education or Other Legal Code: Education Code 49414

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Defense and indemnification from civil liability by the district

Employee Notifications (continued)

When/Whom to Notify: Within 30 days, to employees returning from military leave of absence
Education or Other Legal Code: Government Code 20997
Board Policy/Administrative Regulation #: See AR 4161.5/4261.5/4361.5
Subject: Right to receive PERS service credit for military service; application form

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee
Education or Other Legal Code: Government Code 54957
Board Policy/Administrative Regulation #: See BB 9321
Subject: Employee's right to have complaints/charges heard in open session

When/Whom to Notify: When taking disciplinary action against employee for disclosure of confidential information
Education or Other Legal Code: Government Code 54963
Board Policy/Administrative Regulation #: See BP 4119.23/4219.23/4319.23
Subject: Law prohibiting disclosure of confidential information obtained in closed session

When/Whom to Notify: Within one working day of work-related injury or crime victimization
Education or Other Legal Code: Labor Code 3553, 5401
Board Policy/Administrative Regulation #: See BP 4157.1/4257.1/4357.1
Subject: Potential eligibility for workers' compensation benefits, claim form

When/Whom to Notify: When adverse employment action is based on DOJ criminal history information or subsequent arrest notification
Education or Other Legal Code: Penal Code 11105, 11105.2
Board Policy/Administrative Regulation #: See AR 4112.5/4212.5/4312.5
Subject: Copy of DOJ notification

When/Whom to Notify: To any employee with exposure to blood or potentially infectious materials, upon initial employment and at least annually thereafter
Education or Other Legal Code: 8 CCR 3204, 5193
Board Policy/Administrative Regulation #: See AR 4119.42/4219.42/4319.42
Subject: The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records

When/Whom to Notify: To any employee assigned to a work area where hazardous chemical are present, upon initial assignment and upon new exposure situation
Education or Other Legal Code: 8 CCR 5191
Board Policy/Administrative Regulation #: See AR 3514.1
Subject: Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

Employee Notifications (continued)

When/Whom to Notify: To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area

Education or Other Legal Code: 8 CCR 5194

Board Policy/Administrative Regulation #: See AR 3514.1

Subject: Any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights

When/Whom to Notify: To employee eligible for military leave

Education or Other Legal Code: 38 USC 4334

Board Policy/Administrative Regulation #: See AR 4161.5/4261.5/4361.5

Subject: Notice of rights, benefits, and obligations under military leave

When/Whom to Notify: Within five days of employee's request for family care and medical leave, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave

Education or Other Legal Code: 29 CFR 825.300; 2 CCR 11049, 11091

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

When/Whom to Notify: Whenever notice of eligibility for FMLA is provided to employee

Education or Other Legal Code: 29 CFR 825.300

Board Policy/Administrative Regulation #: See AR 4161.8/4261.8/4361.8

Subject: Rights and responsibilities; consequences of failure to meet obligations

Policy

adopted: 01/22/2013

Revised: 10/08/2013; 05/23/2017; 06/23/2020

Revised:

WEST COVINA UNIFIED SCHOOL DISTRICT

West Covina, California

All Personnel

AR 4161.2(a)
4261.2
4361.2

PERSONAL LEAVES

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner.

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

Bereavement

Employees are entitled to a leave of up to five days upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

Members of the immediate family shall include those listed in the Bereavement Leave sections of the negotiated bargaining unit agreements for respective certificated and classified staff members. Bereavement leave for employees who are not in bargaining units shall be the same unless otherwise specified in Board policy or individual contract.

At the employee's request, bereavement leave may be extended under personal necessity leave provisions. (Education Code 44981, 45207)

Personal Necessity

Employees may use up to seven days of their accrued sick leave during each contract year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)
2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. A serious illness of a member of the certificated employee's immediate family (Education Code 44981)
4. An employee's appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or other order (Education Code 45207)
5. Fire, flood or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Personal Leaves (continued)

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of person convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects true personal necessity.

Advance permission shall not be required for employees in cases involving the death or serious illness of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. (Education Code 44981)

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

Legal Duties

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury or witness fees. (Education Code 44037)

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness, including but not limited to cases in which the employee is a victim of a crime

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

Personal Leaves (continued)

Leaves for Crime Victims

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, sick leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The supervisor and Superintendent or designee shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

Leaves for Victims of Domestic Violence or Sexual Assault

An employee who is a victim of domestic violence, or sexual assault, or stalking, who is a victim or a crime that caused physical injury or that caused mental injury with threat of physical injury, or whose immediate family member, as defined, is deceased as the direct result of a crime may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to the employee to attend to the following activities: by law may take time off work to obtain or attempt to obtain any relief, including but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the employee or his/her child. (Labor Code 230, 230.1, 246.5)

~~In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)~~

Personal Leaves (continued)

1. Seek medical attention for injuries caused by crime or abuse ~~domestic violence or sexual assault~~
2. Obtain services from a domestic violence shelter, program, or rape crisis center, or victim services organization or agency as a result of the crime or abuse ~~domestic violence or sexual assault~~
3. Obtain psychological counseling or mental health services related to an experience of crime or abuse ~~domestic violence or sexual assault~~
4. Participate in safety planning and take other actions to increase safety from future crime or abuse, ~~domestic violence or sexual assault~~, including temporary or permanent relocation
5. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunction relief to help ensure the health, safety, or welfare of the employee or his/her child

~~An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement. (Labor Code 230, 230.1)~~

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide to his/her supervisor certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim ~~of domestic violence or sexual assault~~
2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, ~~an act of domestic violence or sexual assault~~, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a ~~medical professional~~, domestic violence advocate or advocate for victims of sexual assault, ~~health care provider or counselor~~ as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse from an act of domestic violence or sexual assault
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf certifying that the absence is for the purpose authorized under Labor Code 230 or 230.1

Personal Leaves (continued)

~~The supervisor and Superintendent or designee district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)~~

The Superintendent or designee shall inform employees of their right pursuant to Labor Code 230 and 230.1 using a form developed by the Labor Commissioner or a substantially similar form developed by the district. Such information shall be provided to new employees upon hire and to other employees upon request. (Labor Code 230.1)

Personal Leave for Child's School Activities

~~Any employee who is a parent/guardian, or grandparent having custody of one or more children who are enrolled in grades K-12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence.~~

~~If both parents/guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/guardian who applies. Simultaneous absence by the second parent/guardian may be granted by the Superintendent or designee. (Labor Code 230.8)~~

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll a child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
 - a. A request by the school or child care provider that the child be picked up
 - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider
 - c. Behavioral or discipline problems
 - d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
 - e. A natural disaster, including, but not limited to, fire, earthquake, or flood

Personal Leaves (continued)

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parents/guardians of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation for the school or licensed day care facility provider that the employee engaged he/she participated in school or licensed day care permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

Service on Education Boards, Committees, and State or Employee Organizations

Upon request, certificated employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees, or groups authorized by Education Code 44987.3 provided that all of the following conditions are met:

- The service is performed in the state of California
- The board, commission, organization, or group informs the district in writing of the service
- The board, commission, organization, or group agrees, prior to service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs

The following provisions shall apply to employees of an exclusive bargaining unit only if they are not subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the bargaining unit. (Education Code 45210(h))

- Upon request, certificated and classified employees shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliate. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization.

Personal Leaves (continued)

- Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)
- When leave is granted for any of the above purposes, the employee organization shall reimburse the district within ten (10) days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10.

The employee shall provide the Superintendent or designee with notice, within two business days of receiving official notice that his/her spouse will be on leave from deployment, of his/her intention to take a leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested.

Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel.

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training.

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to employees, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single emergency operation mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee.

Personal Leaves (continued)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification.

Legal References:

EDUCATION CODE

44036-44037 Leaves of absence for judicial and official appearances
44963 Power to grant leaves of absence (certificated)
44981 Leaves of absence for personal necessity (certificated)
44985 Leave of absence due to death in immediate family (certificated)
44987 Service as officer of employee organization (certificated)
44987.3 Leave of absence to serve on certain boards, commissions, etc.
45190 Leaves of absence and vacations (classified)
45194 Bereavement leave of absence (classified)
45198 Effect of provisions authorizing leaves of absence
45207 Personal necessity (classified)
45210 Service as officer of employee organization (classified)
45240-45320 Merit system, classified employees

FAMILY CODE

297-297.5 Registered domestic partner rights, protections, and benefits

GOVERNMENT CODE

3543.1 Release time for representatives of employee organizations
12945.1-12945.2 California Family Rights Act

LABOR CODE

230-230.1 Leave for victims of domestic violence or sexual assault
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighter
230.8 Leave to visit child's school
233 Illness of child, parent, spouse, domestic partner or domestic partner's child
234 Absence control policy
1500-1507 Civil Air Patrol leave

MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

PENAL CODE

667.5 Violent felony, defined
1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 29

2612 Family and Medical Leave Act, leave requirement

UNITED STATES CODE, TITLE 42

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

Regulation

approved: 06/2003

Revised: 01/2004; 11/2010; 04/09/2013

Revised: 02/10/2015

WEST COVINA UNIFIED SCHOOL DISTRICT

West Covina, California

FAMILY CARE AND MEDICAL LEAVE

The district shall not deny any eligible employee his/her right to family care, medical, or Pregnancy Disability Leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) or restrain or interfere with the employee's exercise of such right. In addition, the district shall not discharge an employee or discriminate or retaliate against him/her for taking such leave or for his/her opposition to or challenge of any unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding.

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child ~~(son or daughter)~~ means a biological, adopted, or foster child; a stepchild; a legal ward; or a child person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner, as long as the child is under 18 years of age or an adult dependent child. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee for FMLA and CFRA purposes means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. However, these requirements shall not apply when an employee applies for PDL.

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means a woman who, in the opinion of her health care provider, is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of her job or to perform any of them without undue risk to herself, her pregnancy's successful completion, or to other persons
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents.

Family Care and Medical Leave (continued)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when a health care facility formally admits him/her to the facility with the expectation that he/she will remain overnight and occupy a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage, or a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. To care for the employee's child, parent, or spouse with a serious health condition
3. The employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position

Family Care and Medical Leave (continued)

4. Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined

In addition, the district shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

In addition, for each pregnancy, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of her child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

Each eligible employee shall be granted 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district. If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks. This restriction shall apply regardless of the legal status of both parents' relationship. (Government Code 12945.2; 2 CCR 11088; 29 USC 2612)

Family Care and Medical Leave (continued)

Use/Substitution of Paid Leave

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2; 2 CCR 11044; 29 USC 2612)

The district and employee may also negotiate for the employee's use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

Intermittent Leave/Reduced Work or Leave Schedule

PDL and family care and medical leave for the serious health condition of an employee or his/her child, parent, or spouse may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (2 CCR 11042, 11090; 29 USC 2612)

The basic minimum duration of leave for the birth or placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

Family Care and Medical Leave (continued)

~~if the employee is pregnant and provides medical certification from her health care provider of a medical need for intermittent leave or leave on a reduced work or leave schedule or if the employee's need for the intermittent leave or leave on a reduced work or leave schedule is foreseeable based on his/her planned medical treatment or that of a family member. This alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)~~

Request for Leave

The district shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for the PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30-day notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

Family Care and Medical Leave (continued)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

Certification of Health Condition

Within five business days of an employee's request for family care and medical leave for his/her own or his/her child's, parent's, or spouse's serious health condition, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11091; 29 CFR 825.305)

The certification shall include the following: (Govt. Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

Family Care and Medical Leave (continued)

If the Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

Certification for PDL

For PDL, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30-day notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because she is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011.

Family Care and Medical Leave (continued)

Release to Return to Work

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work.

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

Rights to Reinstatement

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

~~However, the district may refuse to reinstate an employee returning from FMLA or CFRA leave to the same or a comparable position if all of the following apply: (Government Code 12945.2; 2 CCR 11089; 29 USC 2614)~~

- ~~1. The employee is a salaried "key employee" who is among the highest paid 10 percent of district employees who are employed within 75 miles of the employee's worksite.~~
- ~~2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.~~
- ~~3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.~~

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The district may also refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

Family Care and Medical Leave (continued)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the leave if he/she fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid FMLA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while his/her child, parent, or spouse who is a military member is on covered active duty or on call to covered active duty status. (29 USC 2612; 29 CFR 825.126)

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider

Family Care and Medical Leave (continued)

6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, Rest and Recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the district's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

Family Care and Medical Leave (continued)

2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran

Family Care and Medical Leave (continued)

- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the district's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the FEHA/PDL and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30-day notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

2. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

Family Care and Medical Leave (continued)

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying
 - b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
 - c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
 - d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
 - e. ~~The employee's status as a "key employee" if applicable, potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial~~
 - f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
 - g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

4. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

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Family Care and Medical Leave (continued)

If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

Legal Reference:

EDUCATION CODE

44965 *Granting of leaves of absence for pregnancy and childbirth*

FAMILY CODE

297-297.5 *Rights, protections, and benefits under law; registered domestic partners*

300 *Validity of marriage*

GOVERNMENT CODE

12926 *Fair employment and housing act, definitions*

12940 *Unlawful employment practices*

12945 *Pregnancy; childbirth or related medical condition; unlawful practice*

12945.1-12945.2 *California Family Rights Act*

12946 *Fair Employment and Housing Act: discrimination prohibited*

CODE OF REGULATIONS, TITLE 2

11035-11051 *Sex discrimination: pregnancy, childbirth and related medical conditions*

11087-11098 *California Family Rights Act*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage*

UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993, as amended*

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 *Family and Medical Leave Act of 1993*

Regulation

approved: 08/10/1999

Revised: 11/2010; 07/22/2014; 11/10/2015

WEST COVINA UNIFIED SCHOOL DISTRICT

West Covina, California

PROPOSED NEW BOARD POLICY

Instruction

BP 5148.3(a)

PRESCHOOL/EARLY CHILDHOOD EDUCATION

The Governing Board recognizes the value of high-quality preschool experiences to enhance children's social-emotional development, knowledge, skills, abilities, and attributes necessary for a successful transition into the elementary education program. The Board desires to provide children ages 3-4 years access to developmentally appropriate activities in a safe, adequately supervised, and cognitively rich environment.

The Superintendent or designee shall collaborate with the local child care and development planning council, the county office of education, other public agencies, organizations, and/or private preschool providers to assess the availability of preschool programs in the community and the extent to which the community's preschool needs are being met. The Board encourages the development of a comprehensive districtwide and/or countywide plan to increase children's access to high-quality preschool programs.

The Superintendent or designee shall provide information about preschool options in the community to parents/guardians upon request.

District Preschool Programs

When the Board determines that it is feasible, the district may contract with the California Department of Education (CDE) to provide preschool services in facilities at or near district schools, either directly or through a subcontract with a public or private provider.

District preschool programs shall comply with all health and safety laws and regulations, including, when applicable, licensure requirements pursuant to 22 CCR 101156.

The Board shall approve, for the district's preschool program, a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5CCR 18271)

The Board shall set priorities for establishing or expanding services as resources become available, giving consideration to the benefits of providing early education programs for at-risk children and/or children residing in the attendance areas of the lowest performing district schools.

Preschool classroom needs shall be addressed in the district's facilities master plan, including an assessment as to whether adequate and appropriate space exists on school sites. As necessary, the Superintendent or designee shall provide information to the Board regarding facilities financing options for preschool classrooms and/or facilities available through partnering organizations or agencies.

Preschool/Early Childhood Education (continued)

Because parents/guardians are essential partners in supporting the development of their children, the Superintendent or designee shall involve them in program planning.

The Superintendent or designee shall coordinate the district's preschool program, transitional kindergarten program (TK), and elementary education program to provide a developmental continuum that builds upon children's growing skills and knowledge.

The district's program shall be aligned with preschool learning foundations and curriculum frameworks developed by CDE which identify the knowledge, skills, and competencies that children typically attain as they complete their first or second year of preschool. The program shall be designed to facilitate children's development in essential skills in the areas of language and literacy, mathematics, physical development, health, visual and performing arts, science, history-social science, English language development, and social-emotional development.

The district's preschool program shall provide appropriate services to support the needs of at-risk children.

To maximize the ability of children to succeed in the preschool program, the program shall support children's health through proper nutrition and physical activity and shall provide or make referrals to available health and social services as needed.

The district shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled children regarding their child's progress.

The Superintendent or designee shall ensure that administrators, teachers, and paraprofessionals in district preschool programs possess the appropriate permit(s) issued by the Commission on Teacher Credentialing, meet any additional qualifications established by the Board, and participate in professional development opportunities designed to continually enhance their knowledge and skills.

Preschool admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and a health examination requirement. (CCR 18105; 22 CCR 101218)

The Superintendent or designee shall ensure that subsidized preschool is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

The Superintendent or designee shall recommend strategies to link the district's preschool program with other available child care and development programs in the district or community in order to assist families whose child care needs extend beyond the length of time that the district's part-day preschool program is offered.

The Superintendent or designee shall develop and implement an annual plan of evaluation which conforms to state requirements. (5CCR 18279)

Preschool/Early Childhood Education (continued)

The district's uniform complaint procedures, with modifications as necessary, shall be used to investigate and resolve complaints alleging violation of applicable health or safety requirements for license-exempt programs operating under the California State Preschool Program. However, licensed programs shall refer complaints alleging health and safety violations to the California Department of Social Services. (Education Code 8235.5; 5 CCR 4610, 4611, 4690-4694)

The Superintendent or designee shall regularly report to the Board regarding enrollment in district preschool programs and the effectiveness of the programs in preparing preschoolers for transition into the elementary education program.

Legal Reference (see next page)

Preschool/Early Childhood Education (continued)

Legal Reference:

EDUCATION CODE

8200-8499.10 Child Care and Development Services Act, especially:
8200-8209 General provisions for child care and development services
8230-8233 Migrant child care and development program
8235-8239.1 California State Preschool Program
8240-8244 General child care and development programs
8250-8252 Programs for children with special needs
8263 Eligibility and priorities for subsidized child development services
8263.3 Disenrollment of families due to reduced funding levels
8264.8 Center-based child care programs, staffing ratios
8273.1 Family fees
8360-8370 Personnel qualifications
8400-8409 Contracts, administrative appeal procedure
8493-8498 Facilities, capital outlay
8499.3-8499.7 Local child care and development planning councils
44065 Interchange between certificated and classified positions
44256 Credential types
48000 Transitional kindergarten
48985 Notification, primary language other than English

HEALTH AND SAFETY CODE

1596.70-1596.895 California Child Day Care Act
1596.90-1597.21 Day care centers
120325-120380 Immunization requirements

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures
4690-4694 Health and safety complaints in license-exempt preschool programs
18000-18434 Child care and development programs, especially:
18130-18136 California State Preschool Program
18295 Waiver of qualifications for site supervisor
80105-80125 Permits authorizing service in child development programs

CODE OF REGULATIONS, TITLE 22

101151-101239.2 General requirements, licensed child care centers, especially:
101151-101163 Licensing and application procedures
101212-101231 Continuing requirements
101237-101239.2 Facilities and equipment

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act
6311-6322 Title I, relative to preschool
6371-6376 Early Reading First
6381-6381k Even Start family literacy programs
6391-6399 Education of migratory children

UNITED STATES CODE, TITLE 42

9831-9852c Head Start programs
9857-9858r Child Care and Development Block Grant

CODE OF FEDERAL REGULATIONS, TITLE 45

1301.1-1305.2 Head Start

Policy
adopted:

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

PROPOSED NEW BOARD POLICY

Instruction

BP 6142.8(a)

COMPREHENSIVE HEALTH EDUCATION

The Governing Board believes that health education should foster the knowledge, skills, and attitudes that students need in order to lead healthy lives and avoid high-risk behaviors. The district's health education program shall be part of a coordinated school health system which supports the well-being of students and is linked to district and community services and resources.

Goals for the district's health education program shall be designed to promote student wellness and shall include, but not be limited to, goals for nutrition education and physical activity.

The district shall provide a planned, sequential, research-based, and developmentally appropriate health education curriculum for students in grades K-12 which is aligned with the state's content standards and curriculum framework. The Superintendent or designee shall determine the grade levels and subject areas in which health-related topics will be addressed, in accordance with law, Board policy, and administrative regulation.

As appropriate, the Superintendent or designee shall involve school administrators, teachers, school nurses, health professionals representing various fields of health care, parents/guardians, community-based organizations, and other community members in the development, implementation, and evaluation of the district's health education program. Health and safety professionals may be invited to provide related instruction in the classroom, school assemblies, and other instructional settings.

The Superintendent or designee shall provide professional development as needed to ensure that health education teachers are knowledgeable about academic content standards and effective instructional methodologies.

The Superintendent or designee shall provide periodic reports to the Board regarding the implementation and effectiveness of the district's health education program which may include, but not be limited to, a description of the district's program and the extent to which it is aligned with the state's content standards and curriculum framework, the amount of time allotted for health instruction at each grade level, and student achievement of district standards for health education.

Legal Reference (see next page):

Comprehensive Health Education (continued)

Legal Reference:

EDUCATION CODE

- 8850.5 Family relationships and parenting education*
- 35183.5 Sun protection*
- 49413 First aid training*
- 49430-49434 Pupil Nutrition, Health and Achievement Act of 2001*
- 49490-49494 School breakfast and lunch programs*
- 49500-49505 School meals*
- 51202 Instruction in personal and public health and safety*
- 51203 Instruction on alcohol, narcotics and dangerous drugs*
- 51210 Areas of study*
- 51210.8 State content standards for health education*
- 51220.5 Parenting skills; areas of instruction*
- 51260-51269 Drug education*
- 51513 Personal beliefs*
- 51880-51881.5 Health education, legislative findings, and intent*
- 51890-51891 Comprehensive health education programs*
- 51913 District health education plans*
- 51920 Inservice training, health education*
- 51930-51939 Comprehensive sexual health and HIV/AIDS prevention education*
- CALIFORNIA CODE OF REGULATIONS, TITLE 5*
- 11800-11801 District health education plan*
- UNITED STATES CODE, TITLE 42*
- 1751-1769j National School Lunch Program*
- 1758b Local wellness policy*
- 1771-1793 Child nutrition programs, including National School Breakfast Program*

Policy
adopted:

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

PROPOSED NEW ADMINISTRATIVE REGULATION

Instruction

AR 6142.8(a)

COMPREHENSIVE HEALTH EDUCATION

The district's health education program shall include instruction at the appropriate grade levels in the following content areas:

1. Alcohol, tobacco, and other drugs
2. Human growth, development, and sexual health
3. Injury prevention and safety

Instruction related to injury prevention and safety may include, but is not limited to, first aid, protective equipment such as helmets, prevention of brain and spinal cord injuries, violence prevention, topics related to bullying and harassment, and Internet safety.

4. Mental, emotional, and social health
5. Nutrition and physical activity
6. Personal and community health

Instruction in personal and community health may include, but is not limited to, oral health, personal hygiene, sun safety, hearing protection, transmission of germs and communicable diseases, symptoms of common health problems and chronic diseases such as asthma and diabetes, emergency procedures, and the effect of behavior on the environment.

Within each of the above content areas, instruction shall be designed to assist students in developing:

1. An understanding of essential concepts related to enhancing health
2. The ability to analyze internal and external influences that affect health
3. The ability to access and analyze health information, products, and services
4. The ability to use interpersonal communication skills, decision-making skills, and goal-setting skills to enhance health
5. The ability to practice behaviors that reduce risk and promote health

Comprehensive Health Education (continued)

6. The ability to promote and support personal, family, and community health

Exemption from Health Instruction

Upon written request from a parent/guardian, a student shall be excused from any part of health instruction that conflicts with his/her religious training and beliefs, including personal moral convictions. (Education Code 51240)

Students so excused shall be given an alternative educational activity.

Involvement of Health Professionals

Health care professionals, health care service plans, health care providers, and other entities participating in a voluntary initiative with the district are prohibited from communicating about a product or service in a way that is intended to encourage persons to purchase or use the product or service. However, the following activities may be allowed: (Education Code 51890)

1. Health care or health education information provided in a brochure or pamphlet that contains the logo or name of a health care service plan or health care organization, if provided in coordination with the voluntary initiative
2. Outreach, application assistance, and enrollment activities relating to federal, state, or county-sponsored health care insurance programs

Regulation
approved:

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

METHODS OF FINANCING FACILITIES FINANCING

~~As economic development continues and homes and apartments multiply, school facilities must be built or expanded to accommodate a growing number of students. With time, safety considerations and educational program changes may require the reconstruction of existing facilities. The purchase of school sites and the construction of buildings may be financed by any legally provided means which the district is qualified to employ.~~

The Governing Board recognizes its responsibility to identify the most cost efficient and effective method of financing when purchasing or modifying district facilities. Financing may be necessary when it is determined that school facilities must be built or expanded to accommodate an increased or projected increased enrollment or when safety considerations and educational program improvements require the replacement, reconstruction, or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method of funding that will best serve district needs as identified in the district's master plan for school facilities.

Funding alternatives may include, but are not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998
2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act
3. Forming a school facilities improvement district pursuant to Education Code 15300-15425
4. Issuing voter-approved general obligation bonds
5. Imposing a parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property
7. Applying for state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30)

The district shall provide reports, maintain records, and provide for audits of the expenditure of state facilities funds as required by law and AR 3460 – Financial Reports and Accountability. (Education Code 41024)

As applicable, the district shall comply with BP 3470 – Debt Issuance and Management.

Facilities Financing (continued)

Developer Fees

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Board may levy developer fees on residential, commercial and industrial construction within the district, subject to restrictions specified by law. (Government Code 53080, 65995)

Findings/Fee Levying/Exemptions

Before levying developer fees, the Board shall make all findings required by law. Findings shall show a reasonable relationship between the construction or reconstruction on which the fee is imposed and the need for school facilities. A reasonable relationship also shall be found between the amount of the fee and the cost of the needed school construction. All decisions to levy fees shall be based upon such reasonable relationships. Exemptions from fees shall be granted when reasonable relationships cannot be shown.

Before levying developer fees, the Board shall schedule a public hearing at which it may adopt the resolutions required by law. Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be available to the public at least ten days before the hearing. Notice of the hearing shall be given as required by law. (Government Code 54954.1, 54992)

The resolution adopted by the Board shall state the Board's findings which justify the fees and the conditions which have been met to allow collection of the fees at the time when building permits are issued.

The Superintendent or designee shall establish procedures for the timely and consistent levying of developer fees in accordance with the requirements of law. He/she shall cooperate with local governmental agencies in issuing building permits. Before a permit is issued, the Board shall certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Government Code 53080)

The Board shall regularly review its school construction plans to evaluate its capital needs and its need for developer fees.

Fees may be revised in accordance with the increase legally allowed for inflation as determined every two years by the State Allocation Board. (Government Code 65995)

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006.

Facilities Financing (continued)

The district shall annually make findings regarding any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit. The Board will take action based on its findings in accordance with law. (Government code 66001)

Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the district shall, within 60 days of the close of each fiscal year, make available to the public the beginning and ending balance for the fiscal year; the fee, interest and other income received; the amount of expenditure; and the amount of refunds made pursuant to Government Code 66001. The Board shall review this information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. (Government Code 66006)

Appeals Process

The Superintendent or designee shall establish an appeals process for the handling of protests, including protests made pursuant to Government Code 66008.

*Legal Reference:*EDUCATION CODE

15100-15592 Bonds of School District
 15700-15754 General Provisions (State School Building Aid Law of 1949)
 15900-15913 State School Building Aide Bond Law of 1949
 16000-16106 State School Building Aide Law of 1952
 16600-16613 State School Building Aide Bond Law of 1957
 16700-16713 State School Building Aid Bond Law of 1958
 17300-17334 Urban School Construction Aide Law of 1968
 17680-17693 State School Building Lease-Purchase Bond Law of 1982
 17695-17695.95 State School Building Lease-Purchase Bond Law of 1984
 17696-17696.98 Greene-Hughes School Building Lease-Purchase Bond Law of 1986
 17701-17758 State School Building Lease-Purchase Law of 1976

GOVERNMENT CODE

53080 Levies against development projects by school districts
 53080.1 Procedures for levying fees
 53080.2 Agreements between districts
 53080.3 Refund of fee or charge
 53080.4 Levies against manufactured home or mobile home
 53080.6 Fee not allowable for reconstruction of structure damaged by disaster
 53080.15 School districts; levies on enclosed agricultural space
 53081 School districts; use of fees on construction
 53175-53179.5 Integrated Financing District Act

Facilities Financing (continued)

Legal Reference (continued):

53311-53317.5 Mello-Roos Community Facilities Act of 1982
54954.1 Mailed notice to property owners
54992 New or increased levies; meetings; notice; ordinance and resolution
65864-65867 Development agreements
65962 Single or multifamily development projects; adoption or increase of fee or charge
65970-65980.1 Interim school facilities
65995-65997 Payment of fees, charges, dedications or other requirements against a development project
66000-66009 Fees for development projects

Policy
adopted: 01/27/1992

WEST COVINA UNIFIED SCHOOL DISTRICT
West Covina, California

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS

Remuneration

Each member of the Governing Board may receive the maximum monthly compensation as provided for in law with the following provisions:

- a) A member may decline receiving any stipend or benefit;
- b) A member may elect to receive the stipend

Individual Board members are not required to accept payment for meetings attended.

If a member does not attend all Board meetings during the month, he/she may receive only a percentage of the monthly compensation equal to the percentage of meetings attended unless otherwise authorized by the Board in accordance with law.

Members may be paid for meetings missed when the Board, by resolution, finds that they were performing designated duties of the district at the time of the meeting, they were ill or on jury duty or the absence was due to a hardship deemed acceptable by the Board. (Education Code 35120)

Student Board members shall receive no remuneration for meetings attended. (Education Code 35012)

Reimbursement of Expenses

Board members shall be reimbursed for all actual and necessary expenses incurred in attending any meetings or conferences or in making any trips on official business of the school district when so authorized in advance by the Board. (Education Code 35044)

The rate of reimbursement shall not exceed any limitations specified for district personnel.

Health and Welfare Benefits

Board members ~~may participate in~~ are eligible for the health and welfare benefits program the same as provided for full-time district employees. ~~except that any cost of health and welfare benefits that exceeds the amount of the stipend must be paid by the individual Board member; and if the cost of the benefit is less than the amount of the stipend, the Board member may elect to receive the difference in the form of a stipend.~~

Health and welfare benefits for Board members shall be no greater than that received by the district's non-safety employees with the most generous schedule of benefits. (Government Code 53208.5)

Remuneration, Reimbursement, and Other Benefits (continued)**Former Board Members**

Any former Board members after serving at least one full term may continue the health and welfare benefits program at their own expense if coverage is in effect at the time of becoming a former Board member. When the participating former Board member becomes eligible for Medicare/Medicaid, the benefits program shall cover only those eligible expenses not covered by Medicare, Medicaid, or other health insurance programs.

*Legal Reference:*EDUCATION CODE*1090 Compensation for members and mileage allowance**33362 Reimbursement of expenses (Department of Education and CSBA workshops)**35012 Board members; number, election and term**35044 Payment of traveling expenses of representatives of board**35120 Compensation (services as member of governing board)**35172 Promotional activities**44038 Cash deposits for transportation purchased on credit*GOVERNMENT CODE*20361 Elective officers; election to become member**20361.2 Elective officer construed; county board of education members**53200-53209 Group insurance, especially**53200 Definitions: group insurance, local agency; health and welfare benefits*

Bylaw

adopted: 09/24/1991

Revised: 02/11/1997; 04/14/1998; 06/17/2016

WEST COVINA UNIFIED SCHOOL DISTRICT

West Covina, California