

# SCHOOL AND COLLEGE LEGAL SERVICES of California


General Counsel  
Margaret M. Merchat

A Joint Powers Authority serving school and  
college districts throughout the state with offices in  
Eureka, Hayward, San Rafael, Santa Cruz and Santa Rosa

Reply to:  
Santa Rosa Office  
5350 Skylane Blvd.  
Santa Rosa, CA 95403  
(707) 524-2690  
Fax: (707) 578-0517  
[santarosa@scsiscal.org](mailto:santarosa@scsiscal.org)

Attorneys  
Janna L. Lambert  
Nancy L. Klein  
Marko H. Fong  
Carl D. Corbin  
Patrick C. Wilson  
Loren W. Soukup  
Frank Zotter, Jr.

Employer-Employee  
Relations Coordinator  
Robert S. Latchaw

  
Susanne K. Reed  
(1947 - 2010)

Of Counsel  
Robert J. Henry  
Virginia A. Riegel

## LEGAL UPDATE

March 28, 2011

**To:** Superintendents, Member School Districts (K-12)

**From:** Marko Fong, Assistant General Counsel *MF*

**Subject:** Education Code Requirements for Minimum Minutes of Physical Education  
Memo No. 03-2011

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The California Supreme Court recently declined to hear the Appeal of *John Doe v. Albany Unified School District School*,<sup>1</sup> thus leaving intact a December State Appeals Court ruling that elementary schools must provide students a minimum of 200 minutes of PE instruction for every ten days of school.<sup>2</sup> The District had argued that the Education Code sections were only advisory, not mandatory.

The Appellate Court also held that parents may possibly have standing to enforce (though not to sue for damages) Education Code section 51210 through civil court.<sup>3</sup>

Elementary districts should ensure that they are in compliance with Education Code section 51210 for all students. High school districts should also ensure compliance with the requirement of 400 minutes of PE instruction for every ten days of instruction in accordance with Education Code section 51222. For your convenience, a copy of both Education Code sections is provided at the end of this Legal Update.

Please contact any of our attorneys if you have questions regarding this or other legal issues.

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<sup>1</sup> (2010) 190 Cal.App.4th 668

<sup>2</sup> Education Code section 51210 and 51222 is a parallel provision for grades 7-12.

<sup>3</sup> This may include other provisions from Education Code sections 51200-51280 that cover course requirements and minimum academic minutes.

## EDUCATION CODES

### § 51210. Areas of study

The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

- (a) English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.
- (b) Mathematics, including concepts, operational skills, and problem solving.
- (c) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.
- (d) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.
- (e) Visual and performing arts, including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.
- (f) Health, including instruction in the principles and practices of individual, family, and community health.
- (g) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.
- (h) Other studies that may be prescribed by the governing board.

### § 51222. Physical education

- (a) All pupils, except pupils excused or exempted pursuant to Section 51241, shall be required to attend upon the courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays. Any pupil may be excused from physical education classes during one of grades 10, 11, or 12 for not to exceed 24 clock hours in order to participate in automobile driver training. Such pupil who is excused from physical education classes to enroll in driver training shall attend upon a minimum of 7,000 minutes of physical education instruction during such school year.
- (b) The governing board of each school district that maintains a high school and that elects to exempt pupils from required attendance in physical education courses pursuant to paragraph (1) or (2) or both of subdivision (b) of Section 51241 shall offer those pupils so exempted a variety of elective physical education courses of not less than 400 minutes each 10 schooldays.