



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and
college districts
throughout the state.*

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LEGAL UPDATE

April 22, 2015

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

From: Carl D. Corbin, General Counsel *CDC*

Subject: 2015-16 Annual Notice to Parents
Corrected Memo No. 08-2015

This is an Addendum to our Legal Update Memo No. 08-2015, the 2015-2016 Annual Notice to Parents. It has come to our attention that the April 3, 2015, eight page cover letter to the Annual Notice of Parents sent to our clients was the incorrect version of the document. However, the correct version of the Annual Notice to Parents with attachments was included with the April 3, 2015, Legal Update – only the cover letter on our letterhead was incorrect.

Please discard the April 3, 2015, eight page cover letter on our letterhead and substitute with the enclosed correct updated nine page version of the cover letter, dated April 22, 2015. All other documents previously provided continue to be correct and appropriate for use.

I apologize for any inconvenience.

Please contact me if you have any questions regarding this matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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

From: Monica D. Batanero, Associate General Counsel *MDB*

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Subject: 2015-16 Annual Notice to Parents
Corrected Memo No. 08-2015

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Consistent with Education Code section 48980 and other state and federal laws which require districts to annually notify students, parents, and guardians of their legal rights and responsibilities, attached is a form Annual Notice to Parents appropriate for use for the 2015-2016 school year.

The attached Annual Notice to Parents will satisfy a school district's obligations under Education Code section 48980 and other state and federal laws addressing annual notice requirements. However, please be aware that the attached Annual Notice to Parents:

- Provides only summary notification to parents for annually required notices; and
- Does not satisfy any specific circumstance notifications that may be required under state and/or federal law, which will vary from district to district and may vary from school site to school site.

Notification Changes for 2015-2016

The following changes have been made to the 2015-2016 Annual Notice to Parents:

- **Scoliosis Screening Notice:** Education Code section 49452.5, which requires school districts to provide for scoliosis screenings, has been suspended pursuant to the Governor's Budget Act of 2014 for the 2014-2015 fiscal year. As a result, school districts may exercise their discretion as to whether to provide this service since this service is no longer mandated. Therefore, this section has been updated to reflect that a district may provide for scoliosis screenings.



Please be advised that in approximately August 2015, the California Department of Finance will advise the California Department of Education if this mandate will continue to be suspended for the 2015-2016 school year. If scoliosis screenings are mandated for the 2015-2016 school year, school districts may need to provide notice to parents of this change.

- **Participation in State Assessments and Option to Request Exemption:** This section has been added to comply with the requirement that parents be notified that pupils in applicable grade levels will participate in the California Assessment of Student Performance and Progress (CAASPP) except as exempted by law. Each year, a parent may submit a written request to excuse his or her child from any or all parts of the CAASPP assessments for that school year. If the parent submits the exemption request after testing begins, any test(s) completed before the request is submitted will be scored; the results will be included in the pupil's records and reported to the parent. School district employees shall not solicit or encourage any exemption request on behalf of a pupil or group of pupils.
- **Dental Fluoride Treatment:** This section has been added to notify parents that, if desired, students will be provided the opportunity to receive an application of fluoride or another decay-inhibiting agent to the students' teeth.
- **Prescription Inhaled Asthma Medication:** This section has been updated to clarify that students may carry and self-administer prescription inhaled asthma medication. The parent or guardian must release the school district and personnel from liability for any harm resulting from the self-administered medication, and provide a release for authorized school personnel to consult with the physician or surgeon.
- **State Funded Advanced Placement Examinations:** This section has been deleted because Education Code section 52244, which required notification that state funds may be available to cover advanced placement exam fees, has been repealed.

Additional Documents That Must be Included in the Annual Notice to Parents

As always, each school district is required to provide, in addition to the Annual Notice to Parents, documents that are specific to each individual school district. The following documents must also be included with the Annual Notice to Parents:

- Your district's policy on sexual harassment;
- A listing of all pesticides that will be used at each school site in your district (including the Internet address developed by the Department of Pesticide Regulation pursuant to Food and Agricultural Code section 13184 for access to information on pesticides and pesticide use reduction, and the parent option to register to receive notification of individual pesticide applications at the school facility) and, if applicable, the district's



integrated pest management (IPM) plan or the district website address where the plan may be viewed;

- The schedule of all minimum and pupil-free staff development days for your district (school calendar);
- Your district's policy on parent classroom visits;
- Your district's Uniform Complaint Procedures, which should include an explanation of the process, opportunity to appeal to the California Department of Education (Education Code section 262.3), district persons responsible for processing complaints, and a statement that additional civil law remedies may be available under state and federal discrimination laws. **The Uniform Complaint Procedures should include the bullying and intimidation requirements set forth under Education Code sections 234 et seq., the student fee complaint requirements, and the Local Control and Accountability Plan requirements set forth under Education Code section 52075.**

Other Documents That May be Requested

As described above, state and federal law requires that many documents and other information also be made available to parents/guardians upon request, including, but not limited to, each school's Prospectus of School Curriculum and district non-discrimination policies. In satisfaction of these requirements, the 2015-2016 Annual Notice to Parents provides that such information may be obtained either from the student's school or the district office (as appropriate). Accordingly, please review the Annual Notice to Parents carefully to ensure that your district's policies and procedures are consistent with this statement.

College Admission Requirements and Career Technical Education

Pursuant to Education Code section 51229, each district offering grades 9-12 is required to provide the parent or guardian of each minor pupil enrolled in any of those grades in the district with an annual written notification of the College Admission Requirements and Career Technical Education. This written notice, to the extent possible, shall not exceed one page in length and must include the following:

- A brief explanation of the college admission requirements;
- A list of the current California public college websites and a list of high school courses that have been certified by the University of California as satisfying the requirements for admission to state public colleges;
- A brief description of career technical education, as defined by the CDE;
- The internet address for the portion of the website of the CDE where students can learn more about career technical education; and
- Information about how students may meet with school counselors to help them choose courses at their school that will meet college admission requirements and/or enroll in career technical education courses, or both.



In addition, if a district elects to allow a career technical education course to satisfy the visual/performing arts or foreign language graduation requirement, the district shall provide information about the high school graduation requirements of the district and how each requirement satisfies or does not satisfy the subject matter requirements for admission to state public colleges, as well as a complete list of career technical education courses offered by the district that satisfy the subject matter requirements for admission to the state public colleges, and which of the specific admission requirements these courses satisfy. It is recommended that the College Admission Requirements and Career Technical Education notification be included with your Annual Notice to Parents.

School Accountability Report Card

Pursuant to Education Code section 35256, the governing board of each school district annually shall issue a School Accountability Report Card for each school in the district, publicize those reports, and notify parents or guardians of pupils that a hard copy will be provided upon request. Each district must make hard copies of its annually updated report card available, upon request, on or before February 1st of each year. We strongly encourage that each district include this information in its Annual Notice to Parents.

Title I/ No Child Left Behind Notices

For districts that may be receiving Title I and/or any other federal funds, please note that the Annual Notice to Parents is not intended to satisfy other specific notification obligations you may have under federal law, including the No Child Left Behind Act (“NCLB”). Although the Annual Notice to Parents does contain some parent notifications in satisfaction of NCLB, the scope of such notice is limited to providing only those notices universally required of all districts. Similar to the NCLB requirements, California has enacted the Open Enrollment Act¹, which requires districts with a “low-achieving school” to notify the parents at that school of their option to transfer to another public school served by the district of residence or another school district. Districts should consult with their Title I and other special program coordinators as well as School and College Legal Services with respect to any additional notifications that may be required.

Title 34 of the Code of Federal Regulations section 200.37 requires that Title I districts who have identified a school for improvement or who subject a school to corrective action or restructuring, must provide annual notice of Supplemental Educational Services (SES) availability. This notice must include state-approved providers, a brief description of them, their qualifications and demonstrated effectiveness. The descriptions must specify which providers serve limited English proficient students or those with disabilities. In addition, the notice must provide an explanation of the benefits of receiving SES. While districts can include this notice with their Annual Notice to Parents, this information must be clear and distinguishable from other school information sent home.

¹ Education Code sections 48350 et seq.



If a school is identified for program improvement, corrective action, or restructuring, additional notifications must be sent to parents regarding what this identification means, the reasons for the identification, an explanation of actions underway to address the problem of low achievement, information about parent involvement and transfer options, and other information set forth in 20 USC § 6316.

Title VI of the Civil Rights Act of 1964

Additionally, Title VI of the Civil Rights Act of 1964 requires that each district have a policy of non-discrimination on the basis of race, color, national origin, sex, age, or disability. We recommend that this policy be included with your Annual Notice to Parents.

Federal Race and Ethnicity Data Collection Reporting

Based upon final guidance from the U.S. Department of Education regarding the collection of race and ethnicity data for students and staff, the California Department of Education has revised its data collection requirements using the California Pupil Achievement Longitudinal Data System (CALPADS). School districts are obligated to comply with the reporting requirements using a two-part question (<http://www.cde.ca.gov/ds/sp/cl/>). It is recommended that the Annual Notice to Parents be used as the mechanism for distributing the information to students.

Translation

For those districts subject to Education Code section 48985, the 2015-2016 Annual Notice to Parents has been translated into Spanish and is attached for your convenience. The California Department of Education has established a Clearinghouse for Multilingual Documents to help school districts meet state and federal requirements for document translation and parental notification, including the requirements in Education Code section 48985, No Child Left Behind, and other legislation. The Clearinghouse may be accessed at the following web address: <http://www.cde.ca.gov/Ls/pf/cm/>.

Bullying

Districts are required to adopt and publicize a policy prohibiting discrimination, harassment, intimidation, and bullying, based on actual or perceived characteristics. The policy must include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district. Districts are required to post the policy in all schools and offices, including staff lounges and student government meeting rooms and the policy must be translated as required by Education Code section 48985. It is recommended that the Annual Notice to Parents be used as a mechanism for distributing the policy to students.

High School Exit Exam

Pursuant to Education Code sections 48980(e) and 60850, districts are required to annually notify parents or guardians of the date of the high school exit exam, the requirements for passing



the exam, and the consequences of not passing the exam, and that passing the exam is a condition of graduation. The Annual Notice to Parents can be used as a mechanism for distributing this information to parents/guardians.

Economic Impact Aid

Pursuant to Education Code section 54029, if a school district receives economic impact aid funding, it must post in an easily accessible location on its Internet website, data related to the economic impact aid funding including: the amount of aid allocated to the school district for that fiscal year, the amount of aid used by the school district for administrative costs in that fiscal year, the amount of aid expended for limited English proficient pupils in that fiscal year and the prior fiscal year, amount of aid used for compensatory education in that fiscal year and the prior fiscal year, the amount of unexpended aid and an explanation of why the funds have not been expended.

Sections of the Annual Notice to Parents Required Under Specific Circumstances

Lastly, please find below a list of updated code sections that require annual notice to parents only under specific circumstances. These code sections have not been added to the Annual Notice to Parents as they may not be applicable to all students and specific policies may vary from district to district. It is the responsibility of the individual school district to notify parents regarding the following sections:

○ **Education Code section 49073.6 – Information from Social Media**

If your district has adopted a program, or entered a contract for services, to gather and maintain information from social media² about enrolled students, the district must provide certain information to the parent or guardian of any student whose information has been gathered. This information may be included in the Annual Notice. The parent or guardian of the student whose information has been gathered must be notified of the following: 1) the student's information is being gathered from social media; 2) the process by which the student or his or her parent or guardian can access and examine the collected information; and 3) the process by which the student or his or her parent or guardian can request the correction or removal of information gathered.

○ **Education Code section 69432.9 – Cal Grant Program**

Districts must notify students enrolled in 12th grade that they will be deemed Cal Grant applicants unless the students opt out of being automatically deemed a Cal Grant applicant. If 12th grade students do not opt out, their grade point average will be submitted electronically. This written notice must be provided to all 12th grade students and their parents for students who are under 18, by October 15 of the student's 12th grade year. The notice must specify the process by which students may opt out within a set

² "Social media" is defined as an electronic service or account, or electronic content, including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations.



period of time of not less than 30 days. The notice must indicate when the school will send grade point averages to the commission.

○ **Health and Safety Code 120325 & 120335 – Immunizations**

All students entering 7th through 12th grades must be immunized with a pertussis (whooping cough) vaccine booster called Tdap. The new requirement affects all students – current, new, and transfers – in public and private schools. All districts which enroll 7th through 12th grade students must inform parents/guardians of this new requirement. It is recommended that the immunization notification be included with the Annual Notice to Parents.

○ **Education Code section 32221.5 - Pupils Insurance for Athletic Teams**

Requires school districts that elect to operate an interscholastic athletic team(s) to include the following statement, printed in boldface type of prominent size, in all offers of insurance coverage that are sent to members of school athletic teams:

“Under state law school districts are required to ensure that all members of school athletic teams have accidental injury insurance that covers medical and hospital expenses. This insurance requirement can be met by the school district offering insurance or other health benefits that cover medical and hospital expenses.

**Some pupils may qualify to enroll in no-cost or low-cost local, state, or federally sponsored health insurance programs. Information about these programs may be obtained by calling _____
[Insert toll-free telephone number].”**

○ **Education Code section 49475 – Concussions and Head Injuries in Athletics**

Requires districts that elect to offer athletic programs to provide, on a yearly basis, a concussion and head injury information sheet, which must be signed and returned by the athlete or the athlete’s parent or guardian before the athlete may initiate practice or competition.

○ **Education Code section 49414.7 – Emergency Medical Assistance for Administration of Epilepsy Medication**

In the absence of a credentialed school nurse or other licensed vocational nurse who has been trained to administer emergency antiseizure medication, districts may allow nonmedical employees to provide medical assistance to students with epilepsy suffering from seizures, upon request by a parent or guardian. Program details are set forth in Education Code section 49414.7. If the district participates in this program and receives a request from a parent or guardian to provide this medical assistance, the district shall provide employee volunteers with voluntary emergency medical training. The trained



employees should provide assistance in accordance with the Education Code, State guidelines, and instructions provided by the student's health care provider. Upon receipt of a request from a parent or guardian to have a school employee receive such training, districts are required to notify the parent or guardian that the child may qualify for services or accommodations under Section 504 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

○ **Education Code section 49452.8 – Pupil Health: Oral Health Assessment**

Requires public schools to send a notification of the oral health assessment requirements, including a standardized form that can be used for the assessment or on which the parent or legal guardian can indicate one of several specified reasons why an oral health assessment by a licensed dentist or other registered dental health professional assessment cannot be completed for any pupil enrolled in kindergarten in a public school, or in first grade if the pupil was not previously enrolled in kindergarten in a public school (See January 8, 2007 Legal Update.)

○ **Education Code section 44808.5 – High School Open Campus**

If a school district allows high school students to leave campus at lunchtime, a copy of the following notice must be included as part of the Annual Notice to Parents:

“The governing board of the _____ School District, pursuant to Section 44808.5 of the Education Code, has decided to permit the pupils enrolled at _____ High School to leave the school grounds during the lunch period.

Section 44808.5 of the Education Code further states:

“Neither the school district nor any officer or employee thereof shall be liable for the conduct or safety of any pupil during such time as the pupil has left the school grounds pursuant to this section.”

○ **Education Code 35211 – Driver's Training**

School districts that maintain a driver's training course must advise parents of students participating in the course of the civil liability that will be imposed on the parent or guardian, and insurance coverage carried by the district for such courses, specifically including any limitations of such coverage as it relates to parent liability.

○ **Education Code 11503 – Programs to Encourage Parental Involvement**

Requires school districts to develop parent involvement programs with:

- An annual statement identifying specific objectives of the program
- An annual review and assessment of the program's progress in meeting those objectives with the review being made available to parents upon request.



○ **Students' Photographs in Pupil Directory Information**

School districts may choose to include a student's photograph in the definition of pupil directory information. If so, the district must reflect this addition in its Annual Notice to Parents.

○ **Title 20 of the United States Code Annotated section 1232h – Protection of Pupil Rights Amendment**

The Protection of Pupil Rights ("PPRA") requires that districts develop policies that obligate them to obtain prior written consent from parents prior to their student participating in a survey containing one or more of the following items:

- (1) political affiliations or beliefs of the student or the student's parent;
- (2) mental or psychological problems of the student or the student's family;
- (3) sex behavior or attitudes;
- (4) illegal, anti-social, self-incriminating, or demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- (7) religious practices, affiliations, or beliefs of the student or student's parent; or
- (8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

The PPRA requires that school districts provide parents with annual notice of these policies and parents' rights under the policies, including the process to opt their children out of participation in certain activities, and the dates during the school year when the district schedules: (a) surveys requesting personal information; (b) physical examinations or screenings; and (c) collection of personal information from students for marketing or sale.

California has also adopted a similar requirement to the PPRA in Education Code section 51513, which requires written parent consent prior to their students participating in a survey regarding family beliefs, morality, and similar issues.

Please contact our office with questions regarding this Legal Update or any other legal matter.

Enclosures

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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