



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
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LEGAL UPDATE

April 16, 2020

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

From: Kaitlyn Schwendeman, Schools Legal Counsel *KAC*

Subject: 2020-21 Annual Notice to Parents
Memo No. 28-2020

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 in the 2020-21 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.

Notes and Changes for the 2020-2021 Notification

Please note the following for the 2020-2021 Annual Notice to Parents:

- **Scoliosis Screening Notice May Not Be Required:** Education Code section 49452.5, which requires school districts to provide for scoliosis screenings for all female pupils in grade 7 and all male pupils in grade 8, was suspended pursuant to the Governor's Budget Act of 2019 for the 2019-20 fiscal year. As a result, school districts could exercise their discretion as to whether to provide this service since it was not mandated.

Please be advised that in approximately **July of 2020**, the California



Department of Finance will advise the California Department of Education if this mandate will continue to be suspended for the 2020-21 school year. We anticipate that the mandate will continue to be suspended for the 2020-21 school year. However, if scoliosis screenings are mandated for the 2020-21 school year, school districts may need to provide notice to parents of this change.

- **Photographs – Directory Information:** Consistent with Education Code section 49061, “directory information” does not include photographs of students, meaning that photographs of students are “pupil records” and cannot be released without parent/guardian consent. “Directory information” under federal law could include photographs, and some districts have included photographs in the definition of directory information in their board policies. Please note that we have included a section within the attached “Acknowledgement of Parent or Guardian of Annual Rights Notification” giving the district permission to publish photographs of students. Districts are advised to check their board policies to ensure the definition they have adopted for “directory information” correlates to the definition in the Annual Notice to Parents, and if it does not, to make any necessary changes. If a parent or guardian directs the district not to release “directory information,” the district needs to be aware of the definition it has adopted to ensure compliance.

The following change has been made for the 2020-2021 Annual Notice to Parents:

- **Parent/Guardian and Student Rights related to Immigration Status:** Education Code section 234.7 provides protections for students regardless of immigration or citizenship status. The legislation requires that districts notify parents and guardians information regarding their children’s rights to a free public education regardless of immigration status or religious beliefs. Additional information has been added to this existing section of the Annual Notice to Parents to comply with this law.
- **Interdistrict Transfer Rights for Victims of Bullying:** Education Code section 46600 was amended, effective January 1, 2020, to permit students who are the victims of bullying access to interdistrict transfer so long as the requested school is not at maximum capacity. Additional information has been added to this existing section of the Annual Notice to Parents to reflect this change in the law. For further information regarding this right of transfer, please see Legal Update 34-2019.

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 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 using pesticides not listed in Education Code 17610.5, 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 (your 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. **Each district's Uniform Complaint Procedures, typically found in Board Policy and Administrative Procedure 1312.3, should be updated annually to ensure compliance with current laws.**

If your school district offers any of grades 9 to 12, you must provide information about college admission requirements and career technical education with your Annual Notice to Parents:

- 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 University of California and California State University websites and a list of high school courses that have been certified by the University of California as satisfying the requirements for admission to the University of California and the California State University;
 - 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.



Other Relevant Laws to Consider

As described above, several state and federal laws require that many documents and other information 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 2020-21 Annual Notice to Parents provides that such information may be obtained either from the student's school or the district office (as appropriate). Some laws require notifying parents or guardians in particular situations that do not apply to all students or all schools.

Please review the following sections carefully to ensure that your district's policies and procedures and your Annual Notice to Parents are consistent with the relevant laws.

Code of Conduct for Employee-Pupil Interactions

Pursuant to Education Code section 44050, LEAs that maintain an employee code of conduct containing a section on employee interactions with pupils must provide a written copy of the section to the parent or guardian of each pupil at the beginning of the school year. This requirement is satisfied by including the relevant section in the Annual Notice to Parents. If you have a code of conduct containing a section on employee interactions with pupils, we strongly encourage you to include the language in your Annual Notice to Parents.

Immigrant Pupils Rights

Pursuant to Education Code section 234.7(d)(1), LEAs must provide information to parents and guardians regarding their children's right to a free public information regardless of immigration status or religious belief. This information has been incorporated into the Annual Notice to Parents, but such information may also be distributed by any other cost-effective means determined by the LEA. We have provided a copy of the full "Know Your Rights" document in both English and Spanish, and strongly encourage LEAs to distribute this document to parents and guardians with your Annual Notice to Parents.

Long-Term English Learners

Under Education Code section 440, each parent or guardian must be given notice when their child is assessed for English language proficiency no later than 30 days after the start of the school year. Education Code section 313.2 expanded these parental notification requirements to include the following additional information: 1) whether the child is a long-term English learner or at risk of becoming a long-term English learner; 2) the manner in which the English language development instruction will meet the educational needs of long-term English learners or those at risk of becoming long-term English learners; and 3) the manner in which the program for English language development instruction will help long-term English learners or those at risk of becoming long-term English learners develop English proficiency and meet age-appropriate academic standards.



School Accountability Report Card

Pursuant to Education Code section 35256, the governing board of each school district shall annually 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 / Every Student Succeeds Act

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 ESSA. Although the Annual Notice to Parents does contain some parent notifications in satisfaction of ESSA, the scope of such notice is limited to providing only those notices universally required of all districts. Similar to the ESSA requirements, California has enacted the Open Enrollment Act,¹ 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 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.

Title IX of the U.S. Education Amendments of 1972

Title IX of the U.S. Education Amendments of 1972 requires that each district provide a notice of nondiscrimination and state that the district does not discriminate on the basis of sex in its educational programs and activities. The notice must state that questions regarding Title IX may be referred to the school’s Title IX coordinator or the Office of Civil Rights. The district must notify all students and employees of the name or title, office address, telephone number, and email address of each district’s designated Title IX coordinator.

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 (<https://www.cde.ca.gov/ds/dc/es/refaq.asp>). It is recommended that

¹ Education Code sections 48350 et seq.



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 48985,² the 2020-21 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, Every Student Succeeds, 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.

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. Most of 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 310 – Multilingual Education**

If a school district implements a language acquisition program under this section, information on the types of language programs available and a description of each program must be given to parents and guardians in the annual parent notice or upon enrollment.

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

² Where 15 percent or more of pupils enrolled speak a primary language other than English, all notices, reports and statements sent to the parent or guardian must be written in the primary language in addition to being written in English.



If your district has adopted a program or entered a contract for services to gather and maintain information from social media³ 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 35182.5 – Electronic Products or Services that Disseminate Advertising**

If a district enters into a contract for electronic products or services that requires the dissemination of advertising to students, the district must provide written notice to the parents or guardians of the students that the advertising will be used in the classroom or other learning centers.

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

Districts must notify students enrolled in 11th grade and, for pupils under 18 years of age, his or her parent or guardian, that the students will be deemed Cal Grant applicants unless the students opt out of being automatically deemed a Cal Grant applicant. If 11th grade students do not opt out,⁴ their grade point average will be submitted electronically. This written notice must be provided to all 11th grade students, and their parents (for students who are under 18), by January 1 of the student's 11th grade year. The notice must specify the process and time by which students may opt out within a set period of time, but not less than 30 days. The notice must indicate when the school will send grade point averages to the commission and the submission deadline of October 1.

- **Health and Safety Code sections 120325 & 120335 – Immunizations**

Immunizations are discussed in the Annual Notice to Parents under “Communicable Diseases.” However, districts may want to provide supplemental information detailing the specifics of the immunization requirements due to the impact it may have on students. The law requires all students entering kindergarten, including transitional kindergarten, or advancing from sixth to seventh grade in the district, or prior to his or her first admission to the district, to comply with the immunization requirements of Health and Safety Code section 120335, unless the student provides the district with a valid exemption from a licensed physician, which, after July 1, 2021, must comply with the requirements set

³ “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. (Education Code section 49073.6(a)(2).)

⁴ Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18, only the pupil may opt out.



forth in Health and Safety Code section 120372. New personal-belief exemptions filed with the district will no longer be accepted. Documented immunizations appropriate for each student’s age include (1) Diphtheria, (2) Haemophilus influenzae type b, (3) Measles, (4) Mumps, (5) Pertussis (whooping cough), (6) Poliomyelitis, (7) Rubella, (8) Tetanus, (9) Hepatitis B, (10) Varicella (chickenpox), and any other diseases deemed appropriate by the department. Students qualified for an individualized education program may access special education and related services. Full immunization against Hepatitis B shall not be a condition of admittance to 7th grade. All students entering 7th through 12th grades must be immunized with a pertussis (whooping cough) vaccine booster called Tdap. This affects all students – current, new, and transfers – in public and private schools. 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].”⁵

- **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 and the athlete’s parent or guardian before the athlete may initiate practice or competition.

- **Education Code section 48980(m) – Transfer of Student with Felony Conviction**

⁵ Under the law, the toll-free telephone number can be for: 1) The Healthy Families Program; 2) Medi-Cal; 3) Any other comparable toll-free telephone number for a no-cost or low-cost local, state, or federally sponsored health insurance program. (Education Code § 32221.5, subd. (c).) The number for Medi-Cal, 1-800-880-5305, will meet this requirement.



A school district that elects to adopt a policy regarding the transfer of pupils convicted of a violent felony or misdemeanor, pursuant to Education Code section 48929, shall inform parents or guardians of the policy in the Annual Notice to Parents.

- **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.

- **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 set forth below in bold letters 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 section 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 section 11503 – Programs to Encourage Parental Involvement**

Districts receiving funds under the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), as amended by the federal Every Student Succeeds Act are required to develop a written parent and family engagement program for each school in the district that receives these funds. Each year, these districts must provide:

- 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.
- **Title 20 of the United States Code section 1232h – Protection of Pupil Rights**

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 at the beginning of the school year and within a reasonable period of time after any substantive change in such 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, test, questionnaire, or examination regarding the pupil’s or the pupil’s family’s 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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