

MEETING AGENDA
Board Audit Committee

6:00 PM

June 6, 2013

Superintendent's Conference Room
East Side Union High School District Education Center
830 North Capitol Avenue
San Jose, CA 95133-1398

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications or accommodations, including auxiliary aids or services, in order to participate in the public meeting of the Audit Committee, please contact the office of the District Superintendent at (408) 347-5011. Notification 72 hours prior to the Special Meeting will enable the District to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the District shall also make available this agenda and all other public records associated with this meeting in appropriate alternative formats for persons with a disability.

1. Call to Order/Roll Call

2. Introductions

3. Adopt Agenda

4. Special Order of Business

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

5. Public Comments

Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and 54954.3) preclude any action. As an unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Committee may instruct the Chair to agendize the item for a future meeting.

6. Approval of Minutes

Action: Minutes from the April 18, 2013, meeting will be presented for approval.

Chair / Vice Chair

7. Discussion/Action: Updates - Chair Nguyen and Vice Chair Carrasco

Internal Auditor

8. Discussion/Action: Draft Senior Manager of Internal Controls Work Plan

Kelly Kwong, Senior Manager of Internal Controls, will present a draft of the Senior Manager of Internal Controls Work Plan.

9. Discussion/Action: Cash Handling

Kelly Kwong, Senior Manager of Internal Controls, may present findings and recommendations for action related to cash handling at school sites.

10. Discussion/Action: ASB Debit Balances

Kelly Kwong, Senior Manager of Internal Controls, may present findings and recommendations for action related to cash handling at school sites.

11. Discussion/Action: Fraud, Waste and Abuse Hotline

Kelly Kwong, Senior Manager of Internal Controls, will report on the status of the Fraud, Waste and Abuse Hotline, which was approved at the August 30, 2011, Board meeting.

External Auditor

12. Discussion/Action: Update by External Auditor regarding East Side Union High School District

Joyce Peters, External Auditor, will present an audit update to the Committee.

Superintendent / Associate Superintendent of Business Services

13. Discussion/Action: Student Records Retention – Superintendent Funk and Associate Superintendent Battle will present information regarding the retention of student records.

- **Legal Opinion**
- **Electronic Storage of Records**
- **Draft Policy & Administrative Regulation**

14. Discussion/Action: Equipment Loss/Replacement Board Policy & Administrative Regulation -

Associate Superintendent Battle will present a draft Board Policy and Administrative Regulation regarding equipment loss/replacement.

Audit Committee Business

15. Discussion/Action Future Meetings

Under this item the Audit Committee may schedule future meeting dates and times.

16. Superintendent Communications/Comments

- Chris D. Funk, Superintendent
- Marcus Battle, Associate Superintendent of Business Services

17. Audit Committee Member Comments

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

18. Adjournment

EAST SIDE UNION HIGH SCHOOL DISTRICT
Minutes of Meeting
Unapproved

Item #6

Board Audit Committee

April 18, 2013

6:00 PM

East Side Union High School District
Education Center
Superintendent's Conference Room
830 Capitol Avenue San Jose, CA 95133-1398

1. Call to Order /Roll Call

Chair Nguyen called the meeting to order at 6:08 p.m. Present were Vice Chair Carrasco, Member Berg, Member Juchau and Member Reinke.

Staff members in attendance were:

- *Chris Funk*
- *Marcus Battle*
- *Mary Guillen*
- *Karen Poon*
- *Kelly Kwong (to begin as Senior Manager of Internal Controls on May 1, 2013)*

Presenter:

- *Joyce Peters, External Auditor*

2. Introductions

Persons present at the meeting introduced themselves.

3. Adopt Agenda

Motion by Member Berg, second by Member Carrasco, to adopt the agenda as presented.

Vote: 5/0

4. Special Order of Business

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

None

5. Public Comments

Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and 54954.3) preclude any action. As a unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Board may instruct the Chair to agendize the item for a future meeting.

None

6. Approval of Minutes

Action: Minutes from the February 12, 2013, meeting will be presented for approval.

Motion by Member Reinke, second by Member Berg, to approve the minutes as presented.

Vote: 5/0

Internal Auditor / Chair / Vice Chair

7. Discussion/Action: Updates - Chair Nguyen and Vice Chair Carrasco

Chair Nguyen had no updates to provide the Committee under this item.

8. Discussion/Action: Senior Manager of Internal Controls Status/Update – Chair Nguyen and Vice Chair Carrasco

Chair Nguyen shared with the Committee that there were seven applicants for the position of Senior Manager of Internal Controls. As a result of the interview process, the Board of Trustees hired Kelly Kwong who will begin her employment with the District on May 1.

Kelly Kwong was present at the meeting and shared with the Committee her work experience, certification, accomplishments, and community service.

9. Discussion/Action: Audit Committee Charter – Chair Nguyen and Vice Chair Carrasco

Chair Nguyen shared with the Committee that the Board adopted the Audit Committee's proposed amendments to the Audit Committee Charter at their Board Meeting of April 16, 2013.

10. Discussion/Action: Fraud/Waste/Abuse Hotline – Chair Nguyen and Vice Chair Carrasco

It was reported that to-date there have been no reports of fraud, waste and/or abuse reported to the hotline.

External Auditor

11. Discussion/Action: Update by External Auditor regarding East Side Union High School District - Joyce Peters, External Auditor, will provide an audit update to the Committee.

Joyce Peters introduced herself and her work with Vavrinek, Trine, Day & Company, LLP. She is the new ESUHSD VTD representative.

Superintendent

12. Discussion/Action: Update on the Teacher Laptop Initiative – Superintendent Funk and Associate Superintendent Battle

Associate Superintendent Battle shared with the Committee that the every teacher will be provided a laptop to assist them with instruction in the classroom. Teachers have been given the option of a Mac or PC laptop. Tentative delivery date of the laptops to the District is May 3, 2013. All computers will be asset tagged and the information will be uploaded into a database. Prior to issuance of the laptop, teachers will be signing a form indicating that they have been assigned the laptop and that they will adhere to the District's acceptable use policy.

13. Discussion/Action: Update on Copiers - Associate Superintendent Battle

Associate Superintendent Battle shared with the Committee that a comprehensive review of the copiers in the District was performed. The goal is to provide current copier technology at the sites provide newer, more reliable machines and trainings at the sites. There is also the green effect to produce fewer copies and reduce power usage. The goals is to provide the Board with a recommendation by the June 27 meeting and then to start the replacement process.

14. Discussion/Action: Storage of Records – Superintendent Funk and Associate Superintendent Battle

Associate Superintendent Battle indicated that the District has a policy on storage of records. The current policy is in the process of being reviewed and updated. The District has no administrative regulation for storage of records, but will be developing an administrative regulation to accompany the Board Policy.

Superintendent Funk indicated that a legal opinion on the retention of student records will be presented at the next Audit Committee meeting.

Audit Committee Business

15. Discussion/Action Future Meetings

Under this item the Audit Committee may schedule future meeting dates and times.

The next Audit Committee Meeting will be held on June 6, 2013, at 6 PM in the Superintendent's Conference Room of the East Side Union High School District.

Items for future discussion:

- *ASB Debit Balances (recurring item on the agenda)*
- *Records Retention Policy*
- *Board Policy & Administrative Regulation regarding Equipment Loss / Replacement*
- *Cash Handling (recurring item on the agenda)*

16. Superintendent Communications/Comments

- Superintendent Chris D. Funk

ASB Debit Balances – This will be under Kelly's review and she will set up the formal training for the sites to have on a regular basis.

Community Conversations and Focus Group Meetings – A total of 15 community conversations and 6 focus group (students and staff) meeting have taken place around the Strategic Plan.

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The upcoming Board Meeting of April 25 will focus on the Strategic Plan and will be around the vision, mission and core values for the district, as well as the goals of the Board and objectives and strategies.

December 2013 is when the Strategic Plan will be presented to the Board of Trustees.

- Associate Superintendent of Business Services Marcus Battle

The Business Office has reconciled the recommendations of the Auditor. Associate Superintendent Battle will review the reconciled recommendations with Kelly Kwong in May. The information will then be presented to the Audit Committee.

17. Audit Committee Member Comments

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

None

18. Adjournment

Chair Nguyen adjourned the meeting at 7:50 p.m.

Respectfully submitted,

Lan Nguyen, Board Audit Committee Chair

REHON & ROBERTS , APC
LEGAL MEMORANDUM

TO: Lan Nguyen, Audit Committee Chair
Magdalena Carrasco, Audit Committee Vice Chair

CC: Chris D. Funk, Superintendent

FROM: Rogelio M. Ruíz, Esq.

DATE: June 4, 2013

RE: Electronic Storage of District Records

You have asked for general guidance on the electronic storage of District records. More specifically, you have asked whether student and personnel records may be stored electronically and, if so, what types of records must be kept and for how long.

In general, it is against the law to destroy public records. (Gov't Code §6200.) However, school districts are authorized to maintain and destroy records in accordance with Title 5 of the California Code of Regulations.¹

A. May District Records Be Stored Electronically And, If So, In What Format?

Short answer: Yes.

California law expressly provides that school districts may make and store electronic copies of records. Education Code section 35254 provides:

“The governing board of any school district may make photographic, microfilm, or electronic copies of any records of the district. The original of any records of which a photographic, microfilm, or electronic copy has been made may be destroyed when provision is made for permanently maintaining the photographic, microfilm or electronic copies in the files of the district, *except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.*” (Emphasis added.)

¹ Education Code section 35253 provides: “Whenever the destruction of records of a district is not otherwise authorized or provided for by law, the governing board of the district may destroy such records of the district in accordance with regulations of the Superintendent of Public Instruction which he is herewith authorized to adopt.”

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While section 35254 appears fairly straightforward at first glance, there are issues and limitations to consider and keep in mind. First, as discussed below, State regulations require that certain District records be classified as “permanent” and be retained by the District “indefinitely”. Nevertheless, Education Code section 35254 does not specify in what form or format electronic copies must or may be kept. Thus, if the District determines to move towards electronic storage of its records then it should do so with a process and medium that will meet its obligation to maintain permanent records indefinitely, *i.e.*, processes and mediums least prone to error, alteration, destruction, etc.

Second, pursuant to Section 35254, once an original record is copied in electronic format that original record (after the electronic copy is made), if it is one that is basic to any required audit, cannot be destroyed prior to the second July 1st succeeding the completion of the audit.

B. Classification of District Records

Pursuant to the California Code of Regulations, the District Superintendent is required to review (oversee the review) all documents and papers originating during the prior school year and classify them as either “*Class 1 - Permanent*”, “*Class 2 - Optional*” or “*Class 3 - Disposable*”. (5 CCR §16022.) If a district record is active and useful for administrative, legal, fiscal or other purposes over a period of years, then it is a “**continuing record**” and it shall not be classified until such usefulness has ceased. A student’s cumulative record, if not transferred, is a continuing record until the student ceases to be enrolled in the district.

C. What are “Permanent” Public Records?

The original of each permanent record or one exact copy thereof must be retained by the District indefinitely. The list of “permanent” records is extensive and includes certain personnel and student records and is contained in Title 5 of the California Code of Regulations, section 16023, as follows:

“(a) Annual Reports.

- (1) Official budget.
- (2) Financial report of all funds, including cafeteria and student body funds.
- (3) Audit of all funds.
- (4) Average daily attendance, including Period 1 and Period 2 reports.

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(5) Other major annual reports, including:

(A) Those containing information relating to property, activities, financial condition, or transactions.

(B) Those declared by board minutes to be permanent.

(b) Official Actions.

(1) Minutes of the Board or Committees Thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in the minutes but included therein by reference only.

(2) Elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the governing board for a board member, his recall, issuance of bonds incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose.

(3) Records transmitted by another agency that pertain to that agency's action with respect to district reorganization.

(c) Personnel Records.

(1) Employees.

(A) All detail records relating to employment, assignment, amounts and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation, salaries or wages paid, deductions or withholdings made and the person or agency to whom such amounts were paid. In lieu of the detail records, a complete proven summary payroll record for every employee of the school district containing the same data may be classified as Class 1 -Permanent, and the detail records may then be classified as Class 3 - Disposable.

(B) Information of a derogatory nature as defined in Education Code Section 44031 shall be Class 1 -Permanent only after it becomes final. This information becomes final when:

1. The time for filing a grievance has lapsed, or

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2. The document has been sustained by the grievance process.

(C) Information of a derogatory nature as defined in Education Code Section 44031 shall be Class 3 -Disposable if prior to the effective date of this section the document was subject of grievance process and was not sustained.

(2) Pupils.

(A) The records of enrollment and scholarship for each pupil required by Section 432.

(B) All records pertaining to any accident or injury involving a minor for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto, except that these records cease to be Class 1 -Permanent records one year after the claim has been settled or the statute of limitations has run.

(d) Property Records. All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may be classified as Class 1 -Permanent, and the detail records may then be classified as Class 3 -Disposable, if the property ledger includes:

(1) All fixed assets.

(2) An equipment inventory.

(3) For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss, or otherwise.” (Emphasis added.)

Pursuant to the Code of Regulations, any record worthy of preservation but not classified as *Class 1 – Permanent* may be classified as *Class 2 – Optional* and retained until reclassified as *Class 3 – Disposable*. (5 CCR §16024.) Any record not classified as *Class 1 – Permanent* or *Class 2 – Optional* “shall be classified as *Class 3 – Disposable*, including but not limited to detail records relating to:”

“(a) Records Basic to Audit, including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report . . .

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(b) Periodic Reports, including daily, weekly, and monthly reports, bulletins and instructions.” (Emphasis added.)

This section (labeling records basic to audit as “disposable”) is seemingly incongruous with the requirements of performing regular timely and thorough audits. However, there are important limitations on the destruction of *Class 3 – Disposable* records in the Regulations as well. Pursuant to Section 16026 of the Regulations, a “Class 3 – Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 41020 or any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later.” (5 CCR §16026.)² Unless otherwise specified in the Regulations, all *Class 3 – Disposable* records shall be destroyed during the third school year after the school year in which they originated. For example, *Class 3 – Disposable* records originating in 2012-2013 not subject to any other destruction restrictions or preservation requirements in the Regulations may be destroyed after July 1, 2016. Thus, even once a record is designated *Class 3 – Disposable*, it may be several years before it may legally be destroyed.

Finally, continuing records shall not be destroyed until the fourth year after it has been classified as *Class 3 – Disposable*. (5 CCR §16026.)

D. Pupil Records: Mandatory Permanent Pupil Records, Mandatory Interim Pupil Records and Permitted Pupil Records

The Code of Regulations also identifies certain records as “Mandatory Permanent Pupil Records”, “Mandatory Interim Pupil Records” and “Permitted Records”.

1. Mandatory Permanent Pupil Records

Mandatory Permanent Pupil Records are those records which schools have been directed to compile pursuant to state law or regulation. Section 16032(c)(2)(A) of the Code of Regulations (cited above) includes the “records of enrollment and scholarship for each pupil required by Section 432” as a permanent record. Title 5, section 432(b) of the California Code of Regulations describes “Mandatory Permanent Pupil Records” and defines such records as follows:

“(1) “Mandatory Permanent Pupil Records” are those records which the schools have been directed to compile by California statute authorization or authorized administrative

² Recall earlier in this Memorandum that pursuant to Education Code section 35254 the original of the record (as opposed to a copy) may not be destroyed prior to the second July 1st succeeding the completion of the audit.

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directive. Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district. The mandatory permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following:

- (A) Legal name of pupil.
- (B) Date of birth.
- (C) Method of verification of birth date.
- (D) Sex of pupil.
- (E) Place of birth.
- (F) Name and address of parent of minor pupil.

1. Address of minor pupil if different than the above.

2. An annual verification of the name and address of the parent and the residence of the pupil.

(G) Entering and leaving date of each school year and for any summer session or other extra session.

(H) Subjects taken during each year, half-year, summer session, or quarter.

(I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken.

(J) Verification of or exemption from required immunizations.

(K) Date of high school graduation or equivalent.” (Emphasis added.)

2. Mandatory Interim Pupil Records

“Mandatory Interim Pupil Records” are defined in Section 432(b)(2) of the Regulations as follows:

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“Mandatory Interim Pupil Records” are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Such records include:

(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records.

(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

(D) Language training records.

(E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067.

(F) Parental restrictions regarding access to directory information or related stipulations.

(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action.

(H) Parental authorizations or prohibitions of pupil participation in specific programs.

(I) Results of standardized tests administered within the preceding three years.”

3. Permitted Records

All other records not Mandatory Permanent Pupil Records or Mandatory Interim Pupil Records are defined in Regulation 432(b)(3) as “**Permitted Records**” which school district may maintain for educational purposes and which may include the following:

“(A) Objective counselor and/or teacher ratings.

(B) Standardized test results older than three years.

(C) Routine discipline data.

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(D) Verified reports of relevant behavioral patterns.

(E) All disciplinary notices.

(F) Attendance records not covered in the Administrative Code Section 400.”

4. Destruction of Pupil Records

As noted above, Mandatory Permanent Pupil records must be retained by the District indefinitely. (See also 5 CCR §437(b) (Mandatory Permanent Pupil Records “shall be preserved in perpetuity”.) Unless forwarded to another district, Mandatory Interim Pupil Records may be adjudged to be *Class 3 – Disposable* when the student leaves the district or when their usefulness ceases. (5 CCR §437(c).) In such event, destruction shall not take place until the third school year after the school year in which they originated. (5 CCR §16027.) Permitted Pupil Records may be destroyed when their usefulness ceases. They may be destroyed six months following the student’s completion of or withdrawal from the district’s educational program. (5 CCR §437(d).)

The method of destruction of pupil records must assure that the records will not be available to possible inspection in the process of destruction. (5 CCR §437.)

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

Item: 13

SUBJECT: District Records

~~District records shall be developed, maintained, and disposed of in accordance with law and California Department of Education regulations.~~

The Governing Board recognizes the importance of securing and retaining district documents. The Superintendent or designee shall ensure that district records are developed, maintained, and disposed of in accordance with law, Board policy, and administrative regulation.

(cf. 1340 - Access to District Records)
(cf. 3440 - Inventories)
(cf. 4040 - Employee Use of Technology)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

The Superintendent or designee shall establish regulations that define records which are permanent, optional, and disposable and specify how each type of record is to be maintained or destroyed. Any photographic, microfilm, or electronic copies of original records shall be permanently retained.

The Superintendent or designee shall consult with district legal counsel, site administrators, district information technology staff, personnel department staff, and others as necessary to develop a secure document management system that provides for the storage, retrieval, archiving, and destruction of district documents, including electronically stored information such as email. This document management system shall be designed to comply with state and federal laws regarding security of records, record retention and destruction, response to "litigation hold" discovery requests, and the recovery of records in the event of a disaster or emergency.

(cf. 0440 - District Technology Plan)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 4040 - Employee Use of Technology)
(cf. 9011 - Board Member Electronic Communications)

The Superintendent or designee shall ensure the confidentiality of records as required by law and shall establish regulations to safeguard data against damage, ~~or~~ loss or theft.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

The Superintendent or designee shall ensure that employees receive information about the district's document management system, including retention and confidentiality requirements and

an employee's obligations in the event of a litigation hold established on the advice of legal counsel.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Safe at Home Program

District public records shall not include the actual addresses of students, parents/guardians, or employees when a substitute address is designated by the Secretary of State pursuant to the Safe at Home program. (Government Code 6206, 6207)

When a substitute address card is provided pursuant to this program, the confidential, actual address may be used only to establish district residency requirements for enrollment and for school emergency purposes.

~~(cf. 3516 - Emergencies and Disaster Preparedness Plan)~~

(cf. 5111.1 - District Residency)

(cf. 5141 - Health Care and Emergencies)

Legal Reference:

EDUCATION CODE

35145 Public meetings

35163 Official actions, minutes and journal

35250-35255 Records and reports

44031 Personnel file contents and inspection

49065 Reasonable charge for transcripts

CODE OF CIVIL PROCEDURE

2031.010-2031.060 Civil Discovery Act, scope of discovery demand

2031.210-2031.320 Civil Discovery Act, response to inspection demand

GOVERNMENT CODE

6205-6211 Confidentiality of addresses for victims of domestic violence, sexual assault or stalking

6252-6265 Inspection of public records

12946 Retention of employment applications and records for two years

PENAL CODE

11170 Retention of child abuse reports

CODE OF REGULATIONS, TITLE 5

432 Varieties of pupil records

16020-16022 Records-general provisions

16023-16027 Retention of records

Management Resources:

SECRETARY OF STATE PUBLICATIONS

Letter re: California Confidential Address Program Implementation (SB 489), August 27, 1999

WEB SITES

California Secretary of State: <http://www.ss.ca.gov/safeathome>

DRAFT

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

Item: 13

SUBJECT: District Records

Classification of Records

Records means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained as necessary or convenient to the discharge of official duty. (5 CCR 16020)

(cf. 1340 - Access to District Records)

Before January 1, the Superintendent or designee shall review the prior year's records and shall classify them as either a Class 1 (Permanent), Class 2 (Optional), or Class 3 (Disposable) record. (5 CCR 16022)

Records of continuing nature (active and useful for administrative, legal, fiscal, or other purposes over a period of years) shall not be classified until such usefulness has ceased. (5 CCR 16022)

An inventory of equipment shall be a continuing record and shall not be classified until the inventory is superseded or until the equipment is removed from district ownership. (5 CCR 16022)

(cf. 3440 - Inventories)

A student's cumulative record is a continuing record until the student ceases to be enrolled in the district. (5 CCR 16022)

(cf. 5125 - Student Records)

When an electronic or photographed copy of a Class 1 (Permanent) record has been made, the copy may be classified as Class 1 (Permanent) and the original classified as either Class 2 (Optional) or Class 3 (Disposable). However, no original record that is basic to any required audit may be destroyed prior to the second July 1st succeeding the completion of the audit. (Education Code 35254)

Class 1 - Permanent Records

The original of each of the following records, or one exact copy of it when the original is required by law to be filed with another agency, is a Class 1 (Permanent) record and shall be retained indefinitely unless microfilmed in accordance with 5 CCR 16022: (5 CCR 16023)

1. Annual Reports

a. Official budget

- b. Financial reports of all funds, including cafeteria and student body funds
- c. Audit of all funds
- d. Average daily attendance, including Period 1 and Period 2 reports
- e. Other major annual reports, including:
 - (1) Those containing information relating to property, activities, financial condition, or transactions
 - (2) Those declared by Governing Board minutes to be permanent

(cf. 3100 - Budget)

(cf. 3452 - Student Activity Funds)

(cf. 3460 - Financial Reports and Accountability)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

2. Official Actions

- a) Minutes of the Board or Board committees, including the text of rules, regulations, policies, or resolutions included by reference only.
- b) The call for and the result of any elections called, conducted, or canvassed by the Board.
- c) Records transmitted by another agency pertaining to its action with respect to district reorganization.

(cf. 7214 - General Obligation Bonds)

(cf. 9324 - Minutes and Recordings)

3. Personnel Records

Class 1 (Permanent) records include all detailed records relating to employment; assignment; amounts and dates of service rendered; termination or dismissal of an employee in any position; sick leave record; rate of compensation, salaries, or wages paid; and deductions or withholdings made and the person or agency to whom such amounts were paid. In lieu of the detailed records, a complete proven summary payroll record for each employee containing the same data may be classified as Class 1 (Permanent) and the detailed records may then be classified as Class 3 (Disposable).

Information of a derogatory nature as defined in Education Code 44031 shall be Class 1 (Permanent) only when the time for filing a grievance has passed or the document has been sustained by the grievance process.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

4. Student Records

The records of enrollment and scholarship for each student required by 5 CCR 432 and all records pertaining to any accident or injury involving a minor for which a claim for damages had been filed as required by law shall be classified as Class 1 (Permanent) records. This includes any related policy of liability insurance except that these records cease to be Class 1 (Permanent) one year after the claim has been settled or the statute of limitations has expired.

(cf. 5111.1 - District Residency)
(cf. 5141 - Health Care and Emergencies)
(cf. 5143 - Insurance)

5. Property Records

Class 1 (Permanent) records include all detailed records relating to land, buildings, and equipment. In lieu of detailed records, a complete property ledger may be classified as Class 1 (Permanent). The detailed records may then be classified as Class 3 (Disposable) if the property ledger includes all fixed assets; an equipment inventory; and, for each piece of property, the date of acquisition, name of previous owner, a legal description, the amount paid, and comparable data if the unit is disposed of.

(cf. 3280 - Sale or Lease of District-Owned Real Property)

Class 2 - Optional Records

Any record considered temporarily worth keeping, but which is not a Class 1 record, may be classified as Class 2 (Optional) and shall be retained until it is reclassified as Class 3 (Disposable). If by agreement of the Board and Superintendent or designee, classification of the prior year records has not been made before January 1 as specified in 5 CCR 16022, all records of the prior year may be classified Class 2 (Optional) pending further review and classification within one year. (5 CCR 16024)

Class 3 - Disposable Records

All records not classified as Class 1 (Permanent) or as Class 2 (Optional) shall be classified as Class 3 (Disposable). These include, but are not limited to, detailed records basic to audit, including those relating to attendance, average daily attendance, or business or financial transactions; detailed records used in preparing another report; teachers' registers if all information required by 5 CCR 432 is retained in other records or if the General Records pages are removed from the register and classified as Class 1 (Permanent); and periodic reports, including daily, weekly, and monthly reports, bulletins, and instructions. (5 CCR 16025)

All Class 3 (Disposable) records shall be destroyed during the third school year after the school year in which the records originated. In addition, Class 3 (Disposable) records shall not be

destroyed until after the third school year following the completion of any legally required audit or the retention period required by any agency other than the State of California, whichever is later. A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3 (Disposable). (5 CCR 16026, 16027)

(cf. 5113.2 - Work Permits)

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BUSINESS AND NONINSTRUCTIONAL OPERATIONS

Item: 14

SUBJECT: Recovery for Property Loss or Damage

~~The Governing Board shall seek reimbursement of damages from any individual or from the parents/guardians of any minor who commits any act of theft or vandalism.~~

The Governing Board desires to create a safe and secure learning environment and to minimize acts of vandalism and damage to school property. To discourage such acts, the district shall seek reimbursement of damages, within the limitations specified in law, from any individual, or from the parent/guardian of any minor, who has committed theft or has willfully damaged district or employee property.

~~(cf. 4156.3 – Reimbursement, Uniforms and Allowances)~~
(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515 - Campus Security)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
(cf. 4158/4258/4358 - Employee Security)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)
(cf. 5131 - Conduct)
(cf. 5131.5 – Vandalism, Theft and Graffiti)
(cf. 5136 - Gangs)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

~~The parent/guardian of a minor who commits an act of theft or vandalism may be held liable for damages and rewards in accordance with law. (Education Code 48904)~~

Rewards

~~If the Superintendent or designee or law enforcement officials are unable to fix responsibility for the theft or vandalism, the Board may direct the Superintendent or designee to offer a reward in any amount it deems appropriate for information leading to the identification and apprehension of the guilty party.~~

~~A reward shall be paid only when criminal conviction or other appropriate judicial procedures have established the guilt of the person(s) responsible for the crime.~~

When district or law enforcement officials have not been able to identify the person(s) responsible for the theft or vandalism of district property, the Board may authorize a reward for the identification and apprehension of the responsible person(s).

The Board authorizes the Superintendent or designee to offer a reward in any amount he/she deems appropriate, not exceeding \$2,500. A reward in excess of \$2,500 shall be authorized in advance by the Board.

The Superintendent or designee shall disburse the reward when the guilt of the person responsible for the act has been established by a criminal conviction or other appropriate judicial procedure.

Legal Reference:

EDUCATION CODE

19910 **Libraries**, malicious cutting, tearing, defacing, breaking or injuring

19911 Willful detention of property

44810 Willful interference with classroom conduct

48904 - Liability of parent or guardian for willful misconduct; ~~withholding of grades, diplomas and transcripts~~

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

GOVERNMENT CODE

53069.5 Reward for information concerning person causing death, injury, or property damage; liability for reward

53069.6 Actions to recover damages

54951 Local agency, definition

PENAL CODE

484 Theft defined

594 Vandalism

594.1 Aerosol paint and etching cream

640.5 Graffiti; facilities or vehicles of governmental entity

640.6 Graffiti

Management Resources:

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov>

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

Item: 14

SUBJECT: Recovery for Property Loss or Damage

Reports by Staff

District employees shall report all damage or loss of school property to the principal or designee immediately after such damage or loss is discovered. In those instances in which insurance reimbursement may be involved, the principal or designee shall contact the appropriate district official.

(cf. 3530 - Risk Management/Insurance)
(cf. 5131.5 - Vandalism, Theft and Graffiti)

Investigation

~~The Superintendent or designee shall ensure that a complete investigation is conducted at the site where the vandalism occurred.~~

~~The principal or designee shall conduct a complete investigation of any instance of damage or loss of school property. The investigation shall be carried out in cooperation with law enforcement officials when appropriate.~~

The Superintendent or designee shall conduct a complete investigation of any instance of damage to or loss of school property and shall consult law enforcement officials when appropriate. If it is determined that the damage has been committed by any district student, the Superintendent or designee shall initiate appropriate disciplinary procedures against the student.

(cf. 3515.3 - District Police/Security Department)
(cf. 5131 - Conduct)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)

Recovery of Damages

When the person causing the damage or loss has been identified and the costs of repair, replacement or cleanup determined, the Superintendent or designee shall take all practical and reasonable steps to recover these costs, including consulting district's legal counsel if necessary. Reasonable steps may include the filing of a civil complaint in a court of competent jurisdiction to recover damages from the responsible person.

If the responsible person is a minor, recovery may be sought from the minor's custodial

parent/guardian in accordance with Education Code 48904. Damages may include the cost of repair or replacement of the property, the payment of any reward, interest, court costs and all other damages as provided by law.

Payment of Reward

When authorized according to Governing Board policy, the Superintendent or designee shall pay the reward to be paid to the party who provides information sufficient to identify and apprehend the person(s) or persons subsequently found responsible for the damage or loss. If more than one informant person provides information, the reward shall be divided among them as appropriate the informants. The Superintendent or designee shall determine who is entitled to what portion of the reward. The identity of the informant person(s) shall be considered confidential and shall not be made public by the District.

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUBJECT: Sale and Disposal of Books, Equipment and Supplies (Personal Property)

When any district-owned instructional materials, equipment, supplies, or other personal property becomes unusable, obsolete, or no longer needed, the Superintendent or designee shall notify the Governing Board, provide an estimated value, and recommend whether the items be sold or disposed of by one of the methods prescribed in law and administrative regulation. Upon approval by the Board, the Superintendent or designee shall arrange for the sale or disposal of these items.

~~The Governing Board recognizes that the district may own personal property which is unusable, obsolete, or no longer needed by the district. The Superintendent or designee shall arrange for the sale or disposal of district personal property in accordance with Board policy and the requirements of state law.~~

~~The Superintendent or designee shall identify to the Board all items not needed by the district, together with their estimated value and a recommended disposition.~~

(cf. 0440 - District Technology Plan)
(cf. 6161 - Equipment, Books and Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Instructional materials may be considered obsolete or unusable when they:

- ~~1. Contain information rendered inaccurate or incomplete by new discoveries or technologies.~~
- ~~2. Have been replaced by more recent versions or editions of the same material, and they are of no foreseeable value in other instructional areas.~~
- ~~3. Contain demeaning, stereotyping or patronizing references to origin, ethnic group identification, religion, age, sex, color, or disability.~~
- ~~4. Have been inspected and discovered to be damaged beyond use or economical repair(s).~~

1. Have been replaced by more recent editions or new materials selected by the Board and have no foreseeable value in other instructional areas

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

2. Are not aligned with the district's academic standards or course of study

(cf. 6011 - Academic Standards)
(cf. 6143 - Courses of Study)

3. Contain information rendered inaccurate or incomplete by new research or technologies
4. Contain demeaning, stereotyping, or patronizing references to any group of persons protected against discrimination by law or Board policy

(cf. 0410 - Nondiscrimination in District Programs and Activities)

5. Are damaged beyond use or repair

(cf. 1312.4 - Williams Uniform Complaint Procedures)

The Superintendent or designee shall establish procedures to be used when selling equipment for which the federal government has a right to receive all or part of the proceeds. These procedures shall ensure a reasonable amount of competition so as to result in the highest possible revenue.

(cf. 3440 - Inventories)

Legal Reference:

EDUCATION CODE

17540-17542 Sale or lease of personal property by one district to ~~another (or certain other agencies)~~

17545-17555 Sale of personal property

35168 Inventory, including record of time and mode of disposal

42291.5 Temporary school bus designation

42303 School bus sale to another district

~~60413 Sales to pupils; disposition of proceeds~~

~~60420 Disposal of old textbooks~~

60500-60530 Sale, donation, or disposal of instructional materials

~~60500 Determination of obsolescence~~

~~60510-60513 Donation or sale~~

~~60520-60521 Disposition of sale proceeds~~

~~60530 (Methods of) destruction~~

GOVERNMENT CODE

25505 District property; disposition; proceeds

CODE OF REGULATIONS, TITLE 5

3944 Consolidated categorical programs, district title to equipment

3946 Disposal of equipment purchased with state and federal consolidated application funds

UNITED STATES CODE, TITLE 40

549 Surplus property

CODE OF FEDERAL REGULATIONS, TITLE 34

80.32 Equipment acquired under a grant or subgrant

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

Standards for Evaluating Instructional Materials for Social Content, 2000

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

School Services of California, Inc.: <http://www.sscal.com>

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BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUBJECT: Sale and Disposal of Books, Equipment and Supplies

Personal Property

The district may sell surplus or obsolete district-owned personal property through any of the following methods:

1. The Superintendent or designee may advertise for bids by posting a notice in at least three public places in the district for at least two weeks, or by publishing a notice at least once a week for at least two weeks in a newspaper having a general circulation in the district and, if possible, publishing within the district. The district shall sell the property to the highest responsible bidder or shall reject all bids. (Education Code 17545)

Property for which no qualified bid has been received may be sold, without further advertising, by the Superintendent or designee. (Education Code 17546)

(cf. 3311 - Bids)

2. The property may be sold by means of a public auction conducted by district employees, employees of other public agencies, or by contract with a private auction firm. Notice related to the auction shall be posted or published as described in item #1 above. (Education Code 17545)
3. The district may sell the property without advertising for bids under any of the following conditions:
 - a. The Governing Board members attending a meeting unanimously agree or may designate authority to the Superintendent or designee that the property, whether one or more items, does not exceed \$2,500 in value. (Education Code 17546)

(cf. 9323.2 - Actions by the Board)

- b. The district sells the property to agencies of federal, state, or local government, to any other school district, or to any agency eligible under the federal surplus property law (40 USC 484 renumbered 40 USC 549) and the sale price equals the cost of the property plus the estimated cost of purchasing, storing, and handling. (Education Code 17540)
- c. The district sells or leases the property to agencies of the federal, state, or local government or to any other school district and the price and terms of the sale or lease are fixed by the Board and approved by the County Superintendent of Schools. (Education Code 17542)

If the Board members attending a meeting unanimously find that the value of the property is insufficient to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the Board or may be disposed of by dumping. (Education Code 17546)

Money received from the sale of surplus property shall be either deposited in the district reserve or general fund or credited to the fund from which the original purchase was made. (Education Code 17547)

Instructional Materials

Surplus or undistributed obsolete instructional materials that are usable for educational purposes may be sold by the district, in which case all of the proceeds of the sale shall be available to acquire basic instructional materials, supplemental instructional materials, or technology-based materials. (Education Code 60510, 60510.1, 60521)

(cf. 0440 - District Technology Plan)
(cf. 6161 - Equipment, Books and Materials)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Such materials also may be donated to another district, county free library, or other state institution; a United States public agency or institution; a nonprofit charitable organization; or children or adults in California or foreign countries for the purpose of increasing the general literacy of the people. Any organization, agency, or institution receiving obsolete instructional materials donated by the district shall certify to the Board that it agrees to make no charge to any persons to whom it gives or lends these materials. (Education Code 60510, 60511)

Surplus or undistributed obsolete instructional materials which are unusable or which cannot be distributed as specified above may be disposed of by either of the following: (Education Code 60530)

1. Mutilated so as not to be salable and sold for scrap at the highest obtainable price
2. Destroyed by any economical means, provided that the materials are not destroyed until at least 30 days after the district has given notice to all persons who have filed a request for such notice

(cf. 3510 - Green School Operations)
(cf. 3511.1 - Integrated Waste Management)

Replacement of School Buses

Upon receiving a state apportionment for the replacement of a school bus, the Board may sell the

bus that is being replaced to another California school district if the following conditions are met: (Education Code 42303)

1. The other district is replacing a bus that is in service and has not been designated a temporary school bus pursuant to Education Code 42291.5.
2. The bus being replaced by the other district is older than the bus that is being sold by this district.
3. The bus being replaced by the other district is not sold to a third school district.
4. The other district, by Board resolution, holds the state and this district harmless for any liability that may result from the bus that this district is selling.
5. The proceeds from the sale of the bus shall be used by this district for home-to-school transportation purposes.

(cf. 3540 - Transportation)

6. Before the sale is finalized, the bus being sold is in compliance with all relevant provisions of the Vehicle Code and Title 13 of the California Code of Regulations.