

SCHOOL AND COLLEGE LEGAL SERVICES of California


General Counsel
Margaret M. Merchat

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

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

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

Employer-Employee
Relations Coordinator
Robert S. Latchaw



Susanne K. Reed
(1947 - 2010)

LEGAL UPDATE

May 9, 2011

Of Counsel
Robert J. Henry
Virginia A. Riegel

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

From: Loren W. Soukup, Assistant General Counsel 

Subject: Annual Notice to Parents
Memo No. 07-2011

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 2011-2012 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, do 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 2011-2012

The following changes have been made to the 2011-2012 Annual Notice to Parents:

- **Student and Family Privacy Rights / Release of Pupil Directory Information:** Prior to administering any anonymous and voluntary survey regarding health risks and behaviors to students in grades 7-12, a school district must provide parents/guardians with written notice that the survey is to be administered. (Education Code 51938.)

- **Open Enrollment Act:** California has enacted the Open Enrollment Act (Education Code 48350 et seq.) which requires districts with a “low-achieving school”, as determined by the Superintendent of Public Instruction, to notify the parents at that school on or before the first day of the school year of their option to transfer to another public school served by the district of residence or another school district of enrollment. This notification may accompany the Annual Notice to Parents, as applicable.
- **Vision Appraisal:** Vision evaluations, as required by Education Code 49455, can now be waived upon presentation of a certificate from a physician’s assistant.
- **Tobacco-Free Schools:** Districts are encouraged to provide notification of their No Smoking Policy pursuant to Education Code 104420 in their Annual Notice to Parents.

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);
- 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.

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 2011-2012 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;
- The internet address for the portion of the Web site of the department where students can learn more about career technical education; and
- Information about how pupils may meet with school counselors to help them choose courses at their school that will meet college admission requirements or enroll in career technical education courses, or both.

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.

¹ Education Code sections 48350 et seq.

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.

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 Parent Notice be used as the mechanism for distributing the information to students.

Translation

For those districts subject to Education Code 48985, the 2011-2012 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/>.

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:

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

Beginning with the 2011-2012 school year, 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 or teams 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 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 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.

○ **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.

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

Please feel free to contact any of our attorneys if you have further questions.

Enclosure