

# CSBA Sample Board Policy

## Instruction

BP 6144(a)

## CONTROVERSIAL ISSUES

Note: The following **optional** policy may be revised to reflect district practice.

The Governing Board recognizes that the district's educational program may sometimes include instruction related to controversial issues that may arouse strong reactions based on personal values and beliefs, political philosophy, culture, religion, or other influences. Instruction concerning such topics shall be relevant to the adopted course of study and curricular goals and should be designed to develop students' critical thinking skills, ability to discriminate between fact and opinion, respect for others, and understanding and tolerance of diverse points of view.

*(cf. 6141.2 - Recognition of Religious Beliefs and Customs)*  
*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*  
*(cf. 6142.3 - Civic Education)*  
*(cf. 6142.8 - Comprehensive Health Education)*  
*(cf. 6142.94 - History-Social Science Instruction)*  
*(cf. 6143 - Courses of Study)*

Note: **District Recommended** criteria for determining the appropriateness of supplementary instructional materials and/or **the** circumstances under which materials should be submitted to the principal or other designee for review prior to their use (e.g., when materials relate to controversial issues or are presented in a controversial manner or context, such as when materials contain nudity, sexual content, graphic violence, or extensive profanity) are addressed in BP 6161.11 - Supplementary Instructional Materials.

The Board expects administrators and teachers to exercise professional judgment when deciding whether or not a particular issue is suitable for study or discussion. They shall consult with the Superintendent or designee as necessary to determine the appropriateness of the subject matter, guest speakers, and/or related instructional materials or resources.

*(cf. 6141 - Curriculum Development and Evaluation)*  
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*  
*(cf. 6161.11 - Supplementary Instructional Materials)*

When providing instruction related to a controversial issue, the following guidelines shall apply:

1. The topic shall be suitable to the age and maturity of the students.
2. Instruction shall be presented in a balanced manner, addressing all sides of the issue without bias or prejudice and without promoting any particular point of view.

**CONTROVERSIAL ISSUES** (continued)

3. **The teacher may express a personal opinion provided he/she identifies it as a personal opinion and clarifies that he/she is not speaking on behalf of the school or district. The teacher shall not express an opinion for the purpose of persuading students to his/her point of view. In the classroom, teachers act on behalf of the district and are expected to follow the adopted curriculum. In leading or guiding class discussions about issues that may be controversial, a teacher may not advocate his/her personal opinion or viewpoint. When necessary, the Superintendent or designee may instruct teachers to refrain from sharing personal views in the classroom on controversial topics.**

**Note: The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution guarantee freedom of speech, including freedom of speech for students. However, under court decisions and Education Code 48950, discipline may be imposed upon students for speech or conduct that constitutes harassment, threats, or intimidation. See BP 5145.2 - Freedom of Speech/Expression.**

4. **No student's viewpoint shall be suppressed, provided such expression is not malicious or abusive toward others. Students shall be assured of their right to form and express an opinion without jeopardizing their relationship with the teacher or school grades or being subject to discrimination, retaliation, or discipline, provided the viewpoint does not constitute harassment, threats, intimidation, or bullying or is otherwise unlawful.**

*(cf. 5022 - Student and Family Privacy Rights)*

***(cf. 5121 - Grades/Evaluation of Student Achievement)***

*(cf. 5145.2 - Freedom of Speech/Expression)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

5. Students shall be informed of conduct expected during such instruction and the importance of being courteous and respectful of the opinions of others.

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

6. Adequate factual information shall be provided to help students objectively analyze and evaluate the issue and draw their own conclusions.
7. The instruction shall not reflect adversely upon persons because of their race, ethnicity, national origin, sex, sexual orientation, gender identity or expression, disability, religion, or any other basis prohibited by law.

## Attachment D: Use CSBA Sample with Suggested Changes

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 5145.9 - Hate-Motivated Behavior)

BP 6144(c)

### CONTROVERSIAL ISSUES (continued)

8. The subject matter of the instruction shall not otherwise be prohibited by state or federal law.

When a guest speaker is invited to make a presentation related to a controversial issue, the **Board requires that he/she be notified Superintendent or designee shall notify him/her** of this policy and the expectations and goals regarding the instruction. If the guest speaker is presenting only one point of view on an issue, the teacher shall be responsible for ensuring that students also receive information on opposing viewpoints.

(cf. 6145.8 - Assemblies and Special Events)

Note: ~~Pursuant to Education Code 51938, districts must notify parents/guardians of any sexual health and HIV/AIDS prevention instruction and of the opportunity to request that their child not receive the instruction; see BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction. The following optional paragraph provides that, at the discretion of the teacher or other designated staff, parents/guardians may be notified and asked to give consent for their child's participation in instruction related to other controversial issues. The following optional paragraph permits parents/guardians to excuse their child from certain types of instruction. For example, pursuant to Education Code 51938, districts must notify parents/guardians of the opportunity to request that their child not receive comprehensive sexual health and HIV prevention instruction. Districts must use a "passive consent" or "opt out" process in which the student receives the instruction unless the parent/guardian notifies the district in writing that the student should not receive the instruction; see BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction. In addition, Education Code 51240 provides that parents/guardians may request in writing that their child be excused from any part of health instruction that conflicts with their religious training or beliefs; see AR 6142.8 - Comprehensive Health Education. Pursuant to Education Code 51513, districts may not administer exams, surveys, or questionnaires containing questions about a student's or his/her family's personal beliefs or practices in sex, family life, morality, and religion unless the student's parent/guardian has provided prior written consent. See AR 5022 - Student and Family Privacy Rights.~~

When required by law, **such as in regards to comprehensive sexual health and HIV prevention education,** ~~or otherwise deemed appropriate by the teacher or administrator,~~ parents/guardians shall be notified prior to instruction ~~related to any controversial issue and parent/guardian consent shall be obtained for student participation that they may request in writing that their child be excused from the instruction.~~ Students whose parents/guardians decline such instruction may be offered ~~the option to participate in~~ an alternative activity of similar **educational** value.

A student or parent/guardian with concerns regarding instruction about controversial issues **may communicate directly with the teacher or principal and/or use** ~~shall be directed to~~ appropriate district complaint procedures.

## Attachment D: Use CSBA Sample with Suggested Changes

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)

*Legal Reference: (see next page)*

BP 6144(d)

### CONTROVERSIAL ISSUES (continued)

*Legal Reference:*

#### EDUCATION CODE

220 Prohibition of discrimination

**48950 Freedom of speech**

**51240 Excuse from health instruction due to religious beliefs**

51500 Prohibited instruction or activity

51510 Prohibited study or supplemental materials

51511 Religious matters properly included in courses of study

**51513 Materials containing questions about beliefs or practices**

51530 Prohibition and definition regarding advocating or teaching communism with intent to indoctrinate

**51930-51939 California Healthy Youth Act; comprehensive sexual health and HIV prevention education**

~~51933 Sex education courses~~

~~51938 Right of parent/guardian to excuse child from sexual health instruction~~

60040 Portrayal of cultural and racial diversity

60044 Prohibited instructional materials

60045 Criteria for instructional materials

#### **COURT DECISIONS**

**Johnson v. Poway Unified School District, (2011) 658 F.3d 954 (9th Cir.)**

**Mayer v. Monroe County Community School Corporation, (2007) 474 F.3d 477 (7th Cir.)**

**Garcetti v. Ceballos, (2006) 547 U.S. 410**

(12/89 8/13) 3/17

**Policy Reference UPDATE Service**

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