

REGULATION 5148.2: BEFORE/AFTER SCHOOL PROGRAMS

Comparison Matrix

Section: Students

SUMMARY OF UPDATE

Summary of Update: Regulation updated to include definitions of "offer access" and "provide access" in regard to Expanded Learning Opportunities (ELO) programs. Detailed information regarding program collaboration requirements moved to Regulation from BP. Regulation updated to reflect **NEW LAWS (AB 181, 2022 and AB 185, 2022)** which updates the ELO program requirements for the 2022-23 school year and forward, including requirements for the district to offer access to ELO programs based on the district's prior fiscal year local control funding formula unduplicated pupil percentage. Regulation also updated to clarify that district that receive funds for classroom-based instructional programs that serve grades TK-6 cannot opt out of the ELO program funding, pursuant to California Department of Education's "Expanded Learning Opportunities Program FAQs." Regulation also updated to reflect requirement that ELO programs are required to offer a nutritional snack, meal, or both and to reflect California Department of Education guidance that ELO programs do not have an attendance requirement and to reflect **NEW LAW (SB 1380, 2022)** which renumbered The California Prekindergarten Planning and Implementation Grant Program, Education Code 8251.5 to 8322.

CSBA NOTE: The district should revise the following administrative regulation to reflect the expanded learning opportunity programs, including before and/or after school program(s), it offers and the grade levels at which the programs are offered. In addition to the program requirements described below, before-school and after-school programs may be subject to other district policies such as BP/AR 5148 - Child Care and Development, AR 3514.2 - Integrated Pest Management, and BP/AR 3550 - Food Service/Child Nutrition Program. The district should consult CSBA District and County Office of Education Legal Services or district legal counsel if it has questions regarding the applicability of other laws to the district's programs.

CURRENT VERSION			REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
PARA	Section	Sub-Section	January 10, 2023	
			Definitions	No change
1			<i>Expanded learning opportunities means before school, after school, summer, or intersession learning programs that focus on developing the academic, social, emotional, and physical needs and interests of students through hands-on, engaging learning experiences. Expanded learning opportunities does not mean an extension of instructional time, but rather, opportunities to engage students in enrichment, play, nutrition, and other developmentally appropriate activities.</i>	<i>Expanded learning opportunities means before school, after school, summer, vacation, and/or intersessional learning programs that focus on developing the academic, social, emotional, and physical needs and interests of students through hands-on, engaging learning experiences. Expanded learning opportunities does not mean an extension of instructional time, but rather, opportunities to engage students in enrichment, play, nutrition, and other developmentally appropriate activities.</i>

			<i>Offer access, with regard to an Expanded Learning Opportunities (ELO) program, means to recruit, advertise, publicize, or solicit through culturally and linguistically effective and appropriate communication channels.</i>	
			<i>Provide access, with regard to an ELO program, means to register or enroll a student in an ELO program.</i>	
2		<i>Unduplicated student means a student enrolled in a district who is either classified as an English learner, eligible for a free or reduced-price meal, or is a foster youth.</i>	No change	
		Grades K-9	Grades TK-6	
			<i>The district's After School Education and Safety (ASES) program or 21st Century Community Learning Center (21st CCLC) program shall serve students in any of grades TK-6 as the district may determine based on local needs.</i>	CSBA NOTE: The following section is for use by districts providing before-school and/or after-school programs funded by the state After School Education and Safety Program (ASES) (Education Code 8482-8484.65), the federal 21st Century Community Learning Center Program (21st CCLC) (Education Code 8484.7-8484.9; 20 USC 7171-7176), or the Expanded Learning Opportunities Program (ELO) (Education Code 46120). ASES and 21st CCLC programs serve students who are in grades K-9 in an elementary, middle, or junior high school.
			<i>The district's ELO program shall serve students in grades TK-6.</i>	
			<i>The district's programs shall be planned through a collaborative process that includes parents/guardians, students, and representatives of participating schools. As appropriate, the Superintendent or designee may include other educational partners in such collaborative process.</i>	CSBA NOTE: The following paragraphs reflect the extent to which a before/after school programs, including ASES, 21st CCLC and ELO programs, require collaborative planning. Districts may revise the following paragraphs to reflect programs offered by the district.

1		<p>The district's Expanded Learning Opportunities (ELO) program shall serve students in grades TK-6. For the 2021-22 school year, the district shall offer access to ELO programs to all unduplicated students in grades TK-6 and provide access to such programs to at least 50 percent of enrolled unduplicated students. Commencing with the 2022-23 school year, the district shall offer all students in grades TK-6 access to ELO programs, and ensure that access is provided to any student whose parent/guardian requests placement in a program.</p>	<p><i>For the 2022-23 school year, the district shall offer access to</i> ELO programs to all unduplicated students in grades TK-6 and provide access to such programs to at least 50 percent of enrolled unduplicated students.</p>	<p>CSBA NOTE: Education Code 46120, as amended by AB 181 (Ch. 52, Statutes of 2022) and AB 185 (Ch. 571, Statutes of 2022), provides for the ELO program and allocates funding to districts under a formula based on a district's percentage of unduplicated students and average daily attendance. For the 2022-23 school year, districts receiving funds are required to offer access to ELO programs to all unduplicated students in grades TK-6 and to provide access to such programs to at least 50 percent of enrolled unduplicated students. Commencing with the 2023-24 school year, districts with a prior fiscal year local control funding formula (LCFF) unduplicated pupil percentage (UPP) of at least 75 percent are required to offer access to ELO programs to all classroom-based students in grades TK-6, and to ensure that access is provided to any student whose parent/guardian requests placement in an ELO program. Commencing with the 2023-24 school year, districts with a prior fiscal year LCFF UPP of less than 75 percent are required to offer access to ELO programs to all unduplicated students in grades TK-6 and ensure that access is provided to any unduplicated student whose parent/guardian requests placement in an ELO program. Districts are required to prioritize services at school sites in the lowest income communities, as determined by prior year percentages of students eligible for free and reduced-price meals, while maximizing the number of schools and neighborhoods with ELO programs across their attendance area.</p> <p>The following paragraph is for districts that receive ELO funds and should be deleted by</p>
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					districts that do not receive such funds. However, the California Department of Education's (CDE), "Expanded Learning Opportunities Program FAQs," clarifies that districts that receive funds for classroom-based instructional programs that serve grades TK-6 cannot opt-out of the ELO program funding.
				<i>The district shall offer access to the ELO program to all classroom-based unduplicated students in grades TK-6. The district shall provide access to any unduplicated student whose parent/guardian requests placement in an ELO program.</i>	
2			The Superintendent or designee shall ensure that the plan to provide access to full-day learning programs the year before kindergarten addresses the needs of children and their families as specified in BP 6170.1 - Transitional Kindergarten.	No change	CSBA NOTE: The California Prekindergarten Planning and Implementation Grant Program, established pursuant to Education Code 8322, provides for a state early learning initiative with the goal of expanding access to classroom-based prekindergarten programs. See BP 6170.1 - Transitional Kindergarten.
3			The district's ASES, 21st CCLC, and ELO program(s) shall be operated in accordance with the following:	No change	CSBA NOTE: Pursuant to Education Code 8484.75, programs funded through the 21st CCLC program are generally subject to the same program requirements applicable to ASES programs, with the exception of specified provisions primarily related to allocation of funds, collaboration, and data collection. In contrast, ELO programs are explicitly subject to some but not all of the ASES requirements pursuant to Education Code 46120. However, the California Department of Education's (CDE), "Expanded Learning Opportunities FAQs," emphasizes that districts are expected to uniformly apply the stricter ASES requirements to all programs since ASES, 21st CCLC, and ELO programs should be considered a single, comprehensive

				<p>program. As such, the following section reflects the expectation that ELO programs will comply with all the requirements for ASES and 21st CCLC programs.</p> <p>The following section applies to ASES, 21st CCLC, and ELO programs, except where otherwise noted, and should be revised to reflect the program(s) offered by the district.</p>	
	1		<u>Program Elements</u>	No change	
		a	The program shall include an educational and literacy element in which tutoring or homework assistance is provided in language arts, mathematics, history and social science, computer training, and/or science.	No change	
		b	The program shall include an educational enrichment element which may include, but is not limited to, fine arts, career technical education, recreation, technology, physical fitness, and prevention activities.	No change	CSBA NOTE: Education Code 8482.3 requires that the program include an educational enrichment component which may include physical fitness. Pursuant to Education Code 8483.55 and 8484.8, CDE has developed voluntary California After School Physical Activity Guidelines which are available on its web site.
	2		<u>Nutrition</u>	No change	CSBA NOTE: Pursuant to Education Code 8483.3, expanded learning opportunity programs are required to offer a nutritional snack, meal, or both. Education Code 8482.3 requires that such snacks or meals conform to applicable state or federal nutrition standards. Reimbursement for providing snacks is available through the National School Lunch Program and the Child and Adult Care Food Program (CACFP) for participating districts. Pursuant to the Healthy, Hunger-Free Kids Act of 2010 (42 USC 1766-1766a), after-school programs participating in the at-risk after-school care component of the CACFP may be

					reimbursed for serving full meals. Further information is available on the web sites of CDE and the U.S. Department of Agriculture.
		a	If snacks or meals are made available in the program, they shall conform to nutrition standards specified in Education Code 49430-49434 or 42 USC 1766 as applicable.	Snacks or meals made available in the program shall conform to nutrition standards specified in Education Code 49430-49434 or 42 USC 1766 as applicable.	
		b	The district's before-school program shall offer a breakfast meal as described in Education Code 49553 for all program participants.	No change	
	3		<u>Location of Program</u>	No change	CSBA NOTE: Education Code 8482.3 provides that a program may be offered at one or multiple school sites. Program applications and U.S. Department of Education (USDOE) nonregulatory guidance, "21st Century Community Learning Centers," state that programs may be located off campus as long as the facility is as available and accessible to students as if it were located at a school.
		a	The program may be offered at one or multiple school sites and/or at an easily available and accessible off-campus facility.	No change	
		b	When there is a significant barrier to student participation in either the before-school or after-school component of a program at the school of attendance, the Superintendent or designee may, with the approval of the Superintendent of Public Instruction, provide services at another school site. Such transfer of services shall occur only if the school to which the program will be transferred agrees to receive students from the transferring school and has an existing grant of the same type as the transferring school, or does not have a 10-percent lower percentage of students eligible for free or reduced-price	No change	

			meals than the transferring school. A significant barrier includes any of the following:		
		i	Fewer than 20 students participating in the program component.	No change	
		ii	Extreme transportation constraints, including, but not limited to, desegregation busing, busing for magnet or open enrollment schools, or student dependence on public transportation.	No change	
		iii	A reduction in the program grant of an existing school due to its merging into a new school opened by the district or the splitting of its students with a new school.	No change	
		iii (2)	In such cases, the district shall arrange for safe, supervised transportation between school sites; ensure communication among staff in the regular school program, staff in the before-school or after-school program, and parents/guardians; and ensure alignment of the educational and literacy elements with the regular school program of participating students.	No change	
	4		<u>Staffing</u>	No change	
		a	All staff members who directly supervise students shall, at a minimum, meet the qualifications for an instructional aide.	No change	
		b	All program staff and volunteers shall be subject to the health screening and fingerprint clearance requirements in law and Board policy.	No change	CSBA NOTE: Pursuant to Education Code 8483.4, program staff and volunteers are required to meet health screening and fingerprint clearance requirements. Education Code 49024 provides that the requirement to obtain an Activity Supervisor Clearance Certificate prior to beginning a paid or volunteer position is satisfied by clearing a

					Department of Justice and Federal Bureau of Investigation criminal background check.
		c	The student-to-staff ratio shall be no more than 20 to 1, except that programs serving transitional kindergarten or kindergarten students shall maintain a student-to-staff member ratio of no more than 10 to 1.	No change	
	5		<u>Hours of Operation</u>	No change	
		a	A before-school program shall not operate for less than one and one-half hours per regular school day.	No change	CSBA NOTE: Pursuant to Education Code 46120, ELO programs must provide in-person before or after school expanded learning opportunities offered on school days that, when added to daily instructional minutes, recess, and meals, meet certain hourly requirements, as specified. Item #5(a) and 5(b) below do not apply to ELO programs offered pursuant to Education Code 46120.
		b	An after-school program shall begin immediately upon the conclusion of the regular school day and shall operate a minimum of 15 hours per week and at least until 6 p.m. on every regular school day.	No change	CSBA NOTE: Pursuant to Education Code 8483, as amended by AB 2622 (Ch. 265, Statutes of 2018), ASES programs that operate at a school site located in an area that has a population density of less than 11 persons per square mile may end operating hours not earlier than 5 p.m. The following paragraph can be revised to reflect district programs.
		c	An ELO program shall provide in-person before or after school expanded learning opportunities that, when added to daily instructional minutes, shall not be less than nine hours of combined instructional time and expanded learning opportunities per instructional day.	No change	
	6		<u>Admissions</u>	No change	
		a	Every student attending a school operating a program is eligible to participate in the program, subject to program capacity.	No change	

	b	If the number of students wishing to participate in the program exceeds program capacity, students shall be selected for enrollment based on the following guidelines:	No change	
	i	First priority for enrollment shall be given to students who are identified as homeless youth, as defined by the McKinney-Vento Homeless Assistance Act (42 USC 11434a), at the time they apply for enrollment or at any time during the school year, to students who are identified by the program as being in foster care, and to students who are eligible for free or reduced-price meals.	No change	
	i (2)	The district is not required to disenroll a current student in order to secure the enrollment of a student who has priority for enrollment.	No change	
	i (3)	The district shall inform the parent/guardian of a homeless or foster youth of the right of the child to receive priority enrollment and how to request priority enrollment.	The district shall inform the parent/guardian of a homeless or foster youth, <i>or student eligible for free or reduced price meals</i> , of the right of the child to receive priority enrollment and how to request priority enrollment.	
	ii	Second priority for enrollment of middle or junior high school students shall be given to students who attend daily.	No change	CSBA NOTE: Item #(2) below is for use by districts that maintain middle or junior high schools.
	iii	Third priority for enrollment shall be given to students identified as in need of academic remediation or support in accordance with Board policy or administrative regulation.	No change	CSBA NOTE: Items #(3)-(5) are optional and may be revised or expanded to include enrollment priorities established by the district.
	iv	Any remaining capacity shall be filled by students selected at random.	No change	
	v	A waiting list shall be established to accommodate additional students if space becomes available.	No change	
7		<u>Attendance/Early Release</u>	No change	

		<p>a Each student admitted into a district program shall be expected to attend the full number of hours that the program is in operation every day that the student participates.</p>	<p>Each student admitted into a district program shall be expected to attend the full number of hours that the program is in operation every day that the student participates. <i>An ELO program offered pursuant to Education Code 46120 does not have an attendance requirement, but the district may track student attendance for safety and continuous quality improvement purposes.</i></p>	<p>CSBA NOTE: Education Code 8483 and 8483.1 express legislative intent that elementary students attend the full program day of either the before-school or after-school program every day in which they participate, and districts are mandated to establish a policy regarding reasonable early daily release of students from the after-school program and reasonable late arrival to a before-school program. Education Code 8483 and 8483.1 allow districts to implement a flexible attendance schedule for students in middle or junior high school. Education Code 8483.1 specifies that, for before-school programs, students who attend less than one-half of the daily program hours may not be counted for attendance purposes.</p> <p>CDE's, "Early Release and Late Arrival Guidance," recommends that late arrival and early release policies be implemented by establishing codes for various reasons of early release or late arrival and includes sample codes.</p> <p>In contrast, CDE's, "Expanded Learning Opportunities Program FAQ," explains that ELO Programs offered pursuant to Education Code 46120 do not have an attendance requirement, but rather districts are encouraged to track student attendance for safety and continuous quality improvement purposes.</p> <p>The following items should be revised to reflect district practice.</p>
		<p>b When necessary, a student's parent/guardian may request, in writing, that the</p>	<p>No change</p>	

		Superintendent or designee approve the reasonable late daily arrival for the before-school program or the reasonable early daily release from the after-school program. The Superintendent or designee shall not approve such a request if the student would be attending less than one-half of the daily program hours.		
	8	<u>Summer/Intersession/Vacation Programs</u>	No change	<p>CSBA NOTE: Item #8 below is for use by districts that offer a program during summer, intersession, or vacation periods. Pursuant to Education Code 8483.76, a school that establishes a before-school or after-school program is eligible to receive a supplemental grant to operate the program in excess of 180 regular school days or during any combination of summer, weekends, intersession, or vacation periods for a maximum of 30 percent of the total grant amount awarded, per school year, to the school.</p> <p>Pursuant to Education Code 46120, ELO programs are required to offer no less than nine hours of in-person expanded learning opportunities per day for at least 30 non-school days during intersessional periods.</p>
		a ELO programs shall offer no less than nine hours of in-person expanded learning opportunities per day for at least 30 non-school days, during intersessional periods.	No change	
		b A before-school program operating during summer, intersession, and/or vacation days shall be offered for a minimum of two hours per day. An after-school program offered during summer, intersession, and/or vacation days may be operated for either three hours or six hours per day in accordance with Education Code 8483.76. When both before-	No change	

		school and after-school programs are offered for the same students on such days, they shall be operated for a minimum of four and one-half hours per day.		
	c	A program offered during summer, intersession, and/or vacation periods may open eligibility to every student attending a school in the district, with priority for enrollment given to students enrolled in the school that received the grant.	No change	
	d	To address the needs of students and school closures, the program may be conducted at an off-site location or an alternate school site. The program shall notify the California Department of Education (CDE) of the change of location and shall include a plan to provide safe transportation pursuant to Education Code 8484.6.	No change	
	e	Any program operating for six hours per day shall provide at least one nutritionally adequate free or reduced-price meal to each eligible student during each program day.	No change	
	f	For any program operating six hours per day, district procedures pertaining to student attendance and early release as specified in item #7 above shall apply.	No change	CSBA NOTE: Education Code 8483.76 mandates that a district operating a six-hour program adopt an attendance and early release policy for the program that is consistent with the district's early release policy for the regular school day; see item #7 above. This policy must be included in the program plan submitted to CDE.
		<u>Volunteers</u>	No change	
1		The Superintendent or designee may establish a registry of volunteer after-school physical recreation instructors and other before-school and after-school program volunteers.	No change	CSBA NOTE: The following optional section is for use by districts that choose to create a registry of volunteer after-school physical recreation instructors or other volunteers pursuant to Education Code 35021.3, and may be used by districts that provide an ASES, 21st

				<p>CCLC, ASSETs, ELO, or any other local program. When the district opts to use a registry created by a county office of education pursuant to Education Code 35021.3 rather than develop its own, the following section may be revised to inform district staff about the county registry and encourage its use.</p> <p>Pursuant to Education Code 35021.3, after-school instruction in physical recreation provided by a volunteer does not count toward satisfaction of physical education requirements pertaining to the number of instructional minutes or course completion for high school graduation; see BP/AR 6142.7 - Physical Education and Activity and BP 6146.1 - High School Graduation Requirements.</p>
2		To be included in the registry, a volunteer shall submit to a criminal background check pursuant to Education Code 45125. The volunteer shall also submit current contact information to the district and shall update that information whenever the information changes.	No change	<p>CSBA NOTE: Education Code 35021.3 requires volunteers to submit to a criminal background check and authorizes, but does not require, the district to contribute funds to pay for all or part of the background check. Pursuant to Education Code 35021.3, the district may expand the following paragraph to impose additional requirements on volunteers (e.g., certification in cardiopulmonary resuscitation).</p>
3		The Superintendent or designee may use a volunteer registered with the district or may select another person to provide physical recreation to students after school hours or to provide other services.	No change	

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