

EDUCATION CODE REFERENCES

Education Code Section 51210 (e) Elementary Course of Study

The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study: (e) Visual and performing arts, including instruction in the subjects of dance, music, theater, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

Education Code Section 51220 (g) Secondary Course of Study

The adopted course of study for grades 7 to 12, inclusive, shall offer courses in the following areas of study: (g) Visual and performing arts, including dance, music, theater, and visual art, with emphasis upon development of aesthetic appreciation and the skills of creative expression.

Education Code Section 51050 Governing Board Enforcement Requirement

The governing board of every school district shall enforce in its schools the courses of study and the use of textbooks and other instructional materials prescribed and adopted by the proper authority.

Education Code Section 51057 Governing Board Exemption Option

Upon request of the governing board of any school district, the State Board of Education may, for a number of years to be specified by the board, grant the district exemption from one or more of the course of study requirements set forth in this division. The exemption may be renewed. Such exemption may be granted only if the board deems that the request made is an essential part of a planned experimental curriculum project which the board determines will adequately fit the educational needs and interests of the pupils.

The request for exemption shall include all of the following elements:

- (a) Rationale for the planned experimental curriculum project.
- (b) Objectives of the planned experimental curriculum project.
- (c) Plans for the administration and conduct of the planned experimental curriculum project, including the use of personnel, facilities, time, techniques, and activities.
- (d) Plans for testing and evaluation of the planned experimental curriculum project.
- (e) Plans for necessary revisions, if any, of the planned experimental curriculum project.
- (f)

Plans for reporting to the State Board of Education on the planned experimental curriculum project.

Education Code Section 33050 General Waiver Authority

(a) The governing board of a school district or a county board of education, on a district-wide or county-wide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, may request the State Board of Education to waive all or part of any section of this code or any regulation adopted by the State Board of Education that implements a provision of this code that may be waived, except: (there is a long list of exceptions, none specifying Visual and Performing Arts).

Education Code 33051 General Waiver Authority

(a) The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) the educational needs of the pupils are not adequately addressed.

RATIONALE

Education Code section 51210 (e) requires that all students in grades 1 through 6 receive instruction, based on a course of study, in visual and performing arts identified as dance, music, theater, and visual art. The important words here are “instruction”, and “course of study”. The intent is clear; the instruction must be based on a course of study and not random lessons. The other important word is the verb “shall”. It is not maybe, should, or if you feel like it. Clearly, it is not optional. There seems to be a rationale that because there are no minute requirements that it can be optional. This is irrelevant as all the subject areas, except physical education do not have minutes. Instruction based on a course of study implies a significant amount of time. It has been my observation that very few governing boards have fully implemented this section of the Education Code.

Education Code section 51220 (g) requires in grades 7 – 12 that courses in visual and performing arts (dance, music, theater, and visual art) be offered. Again, the description “course of study” is used and the verb is “shall”. It has been my observation that most 9 -12 schools meet this requirement, but most 7-8 schools do not.

Education Code section 51050 requires that the school governing boards enforce in its schools the courses of study adopted by the proper authority. In this case the proper authority is the California State Education Code as prescribed by the California State Legislature. However, most governing boards ignore this responsibility as it relates to visual and performing arts.

Education Code 51057 gives governing boards an opportunity, under certain conditions, to apply for an exemption from a course of study. Based on information supplied by the State Department of Education, no school governing boards in California have been granted an exemption from visual and performing arts.

Education Code 33050 gives governing boards the opportunity to request from the SBE a waiver to not include a course of study. However, Education Code 33051 (a) (1) prohibits the waiver if by granting it the educational needs of the pupils are not adequately addressed. A review of the CDE website cde.ca.gov/re/lr/wr/waiverreports , found since 2006, there have been no waivers for the Visual and Performing Arts course of study sections of the Education Code.