

## UNIFORM COMPLAINT PROCEDURES

Except as the Governing Board may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy ~~BP 1312.3~~.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*(cf. 4030 - Nondiscrimination in Employment)*

### Compliance Officers

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. \_The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, ~~\_(such as discriminatory harassment, intimidation, or bullying)\_~~ and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. \_The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.71 - Title IX Sexual Harassment Complaints Procedures)*

Deputy Superintendent, Human Resources and Student Services

Director of Student Services

Human Resources Generalist

650 North Delaware Street

San Mateo, CA 94401

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. \_The compliance officer shall promptly notify the complainant and respondent, ~~if applicable,~~ if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. \_Any complaint against a compliance officer or that raises  
a concern about

## **UNIFORM COMPLAINT PROCEDURES ~~(continued)~~**

the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

AR 1312.3(b)

## **UNIFORM COMPLAINT PROCEDURES (continued)**

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, ~~(such as discriminatory~~ harassment, intimidation, or bullying); applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development)

(cf. 9124 - Attorney)

The compliance officer or, if necessary, ~~an~~ appropriate administrator shall determine whether interim measures are necessary during ~~and pending the result of~~ an investigation ~~and while the result is pending~~. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

### **Notifications**

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

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AR 1312.3(e)

**UNIFORM COMPLAINT PROCEDURES (continued)**

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy

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AR 1312.3(c)

**UNIFORM COMPLAINT PROCEDURES (continued)**

2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, -must be filed no later than one year from the date the alleged violation occurred
4. A statement that -, in the case of a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint

(cf. 0460 - Local Control and Accountability Plan)  
(cf. 3260 - Fees and Charges)

7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

(cf. 6173 - Education for Homeless Children)  
(cf. 6173.1 - Education for Foster Youth)  
(cf. 6173.2 - Education of Children of Military Families)  
(cf. 6173.3 - Education for Juvenile Court School Students)  
(cf. 6175 - Migrant Education Program)

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AR 1312.3(d)

#### ~~UNIFORM COMPLAINT PROCEDURES (continued)~~

8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

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AR 1312.3(d)

#### UNIFORM COMPLAINT PROCEDURES (continued)

9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) ~~for programs within the scope of the UCP~~ by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar~~15~~ days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal ~~antidiscrimination~~ laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices ~~concerning the UCP~~ shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

### **Filing of Complaints**

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

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~~AR 1312.3(e)~~

### **~~UNIFORM COMPLAINT PROCEDURES (continued)~~**

Complaints shall also be filed in accordance with the following rules, as applicable:

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~~AR 1312.3(e)~~

### **UNIFORM COMPLAINT PROCEDURES (continued)**

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy ~~(item #1 of the section "Complaints Subject to UCP")~~ may be filed by any individual, public agency, or organization. (5 CCR 4630)

2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.
3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying~~The complaint~~ shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
65. When a complaint alleging unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
76. When ~~the~~ complainant of unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the

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AR 1312.3(f)

~~UNIFORM COMPLAINT PROCEDURES (continued)~~

\_\_\_\_\_complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. \_\_\_\_\_When

AR 1312.3(f)

### **UNIFORM COMPLAINT PROCEDURES (continued)**

\_\_\_\_\_honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

#### **Mediation**

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying.)~~, the compliance officer shall ensure that all parties agree to ~~permit~~make the mediator ~~access a party~~ to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

#### **Investigation of Complaint**

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with

any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

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AR 1312.3(g)

#### ~~UNIFORM COMPLAINT PROCEDURES (continued)~~

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any

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AR 1312.3(g)

#### UNIFORM COMPLAINT PROCEDURES (continued)

additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform ~~the both~~ parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying,)~~ the compliance officer shall interview the alleged victim(s), any alleged offender(s), ~~offenders~~, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or ~~engagement in~~ any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to ~~Similarly, a respondent's refusal to~~ provide the ~~district's~~ investigator with access to records and documents or information ~~other evidence~~ related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or ~~engagement in~~ any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. ~~(5 CCR 4631)~~

~~In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)~~



## Timeline for Investigation Report

### OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination, ~~(such as discriminatory~~ harassment, intimidation, and bullying~~);~~ the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the investigation report at the same time it is provided to the complainant.

### OPTION 2:

~~Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.~~

AR 1312.3(h)

## UNIFORM COMPLAINT PROCEDURES (continued)

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

*(cf. 9321 - Closed Session)*

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination, ~~(such as discriminatory~~ harassment, intimidation, and bullying~~);~~ the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the district's investigation report, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

## Investigation Report

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600

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~~AR 1312.3(i)~~

## ~~UNIFORM COMPLAINT PROCEDURES (continued)~~

4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

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AR 1312.3(i)

## UNIFORM COMPLAINT PROCEDURES (continued)

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, (such as discriminatory harassment, intimidation, and bullying,) notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian, ~~then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the investigation report shall also be translated into that language pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.~~

For complaints alleging unlawful discrimination, ~~based on state law (such as discriminatory harassment, intimidation, and bullying based on state law,);~~ the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

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~~AR 1312.3(j)~~

## ~~UNIFORM COMPLAINT PROCEDURES (continued)~~

### **Corrective Actions**

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. ~~Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.~~

*(cf. 5137 - Positive School Climate)*

For complaints involving retaliation or unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying,);~~ appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling

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AR 1312.3(j)

### UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 6164.2 - Guidance/Counseling Services)

2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of involving retaliation or unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying involving a student as the respondent,)~~ appropriate corrective actions that ~~focus on a student offender~~ may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference

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AR 1312.3(k)

### UNIFORM COMPLAINT PROCEDURES (continued)

3. Education regarding the impact of the conduct on others
4. Positive behavior support

5. Referral to a student success team

(cf. 6164.5 - Student Success Teams)

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

7. Disciplinary action, such as suspension or expulsion, as permitted by law

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

AR 1312.3(k)

**UNIFORM COMPLAINT PROCEDURES (continued)**

When an employee is found to have committed retaliation or unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying.)~~, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying.)~~ that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the ~~law~~laws regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

AR 1312.3(l)

## **UNIFORM COMPLAINT PROCEDURES (continued)**

For complaints alleging noncompliance with the ~~law~~laws regarding student fees, the district ~~shall attempt in good faith~~, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

### **Appeals to the California Department of Education**

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including ~~at~~as least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.

AR 1312.3(l)

## **UNIFORM COMPLAINT PROCEDURES (continued)**

3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report

3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP

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AR 1312.3(m)

#### **UNIFORM COMPLAINT PROCEDURES (continued)**

6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

#### **Health and Safety Complaints in License-Exempt Preschool Programs**

Any complaint regarding health or safety issues in a license-exempt CSPP program shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in~~In~~ each license-exempt CSPP classroom ~~in the district, a notice shall be posted~~ notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint ~~alleging noncompliance with those requirements. (Education Code 8235.5; 5 CCR 4690)~~

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AR 1312.3(m)

#### **UNIFORM COMPLAINT PROCEDURES (continued)**

alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE web site. (Education Code 8235.5; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs

are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, ~~and shall~~ contain a space to indicate whether the complainant desires a response to the complaint, ~~and~~ allow a complainant to add as much text as desired to explain the complaint. ~~-(Education Code 8235.5; 5 CCR 4690)~~

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8235.5; 5 CCR ~~4692~~4690)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8235.5; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working

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~~AR 1312.3(n)~~

#### ~~UNIFORM COMPLAINT PROCEDURES (continued)~~

days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8235.5; 5 CCR 4692)

If a complaint regarding health or safety issues in a license-exempt CSPP program involves a limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

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~~AR 1312.3(n)~~



## UNIFORM COMPLAINT PROCEDURES (continued)

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8235.5; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

(cf. 1340 - Access to District Records)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools. (5 CCR 4693)

Regulation  
approved:

CSBA MANUAL MAINTENANCE SERVICE  
June 2021~~December 2020~~

**Community Relations**

BP 1313(a)

## **CIVILITY**

~~Members of the San Mateo Union High School District staff will treat parents and other members of the public with respect and expect the same in return. The district is committed to maintaining orderly educational and administrative processes in keeping schools and administrative offices free from disruptions and preventing unauthorized persons from entering school/district grounds.~~

~~This policy promotes mutual respect, civility and orderly conduct among district employees, parents and the public. This policy is not intended to deprive any person of their right to freedom of expression, but only to maintain, to the extent possible and reasonable, a safe, harassment free workplace for our students and staff. In the interest of presenting district employees as positive role models to the children of this district, as well as the community, the San Mateo Union High School District encourages positive communication and discourages volatile, hostile or aggressive actions. The district seeks public cooperation with this endeavor.~~

### Disruptions

The Governing Board recognizes the impact that civility has on the effective operation of the district, including its role in creating a safe and positive school climate and enabling a focus on student well-being, learning, and achievement. The Board believes that each person should be treated with dignity and respect in their interactions within the school community.

*(cf. 0415 - Equity)*

~~Any individual who disrupts or threatens to disrupt school/office operations; threatens the health and safety of students or staff; willfully causes property damage; uses loud and/or offensive language which could provoke a violent reaction; or who has otherwise established a continued pattern of unauthorized entry on school district property, will be directed to leave school or school district property promptly by the Superintendent, principal or designee.~~

~~If any member of the public uses obscenities or speaks in a demanding, loud, abusive and/or demeaning manner, the administrator or employee to whom the marks are directed will calmly and politely admonish the speaker to communicate civilly. If corrective action is not taken by the abusing party, the district employee will verbally notify the abusing party that his/her participation in the meeting, conference, virtual conference, or telephone conversation is terminated and, if the meeting or conference is on district premises, the offending person will be directed to leave promptly.~~

~~When an individual is directed to leave under the above circumstances, the Superintendent, principal or designee shall inform the person that he/she will be guilty of a misdemeanor in accordance with Californian Education Code 44811 and Penal Codes 415.5 and 626.7 if the person reenters any district facility within 30 days after being directed to leave, or within seven days if the person is a parent/guardian of a student attending that school. If an individual refuses to leave upon request or returns before the applicable period of time, the Superintendent, principal or designee may notify law enforcement officials.~~

*(cf. 5131.4 Campus Disturbance)*

*(cf. 5137 - Positive School Climate)*

The Board understands that the First Amendment provides strong protection for speech. However, the Board expects that all speech and expression will comport with norms of civil behavior on district grounds, in district facilities, during district activities or events, and in the use of district electronic/digital systems and platforms.

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

*(cf. 9323 -~~9323~~ Meeting Conduct)*

Civil behavior is polite, courteous, and reasonable behavior which is respectful to others and includes integrity, honesty, acceptance, timeliness, dependability, observance of laws and rules, and effective communication.

The Board and district staff shall model civil behavior as an example of behavior that is expected throughout the district. Practices that promote civil behavior include actively

listening, giving full attention to the speaker, and refraining from interruptions; welcoming and encouraging participation, input, and feedback through stakeholder engagement; promptly responding to concerns; and embracing varying and diverse viewpoints. Such practices may be incorporated into governance standards adopted by the Board or Superintendent and/or professional standards or codes of conduct for employees as specified in district policies and regulations.

(cf. 2111 - Superintendent Governance Standards)  
(cf. 4119.21/4219.21/4319.21 - Professional Standards)  
(cf. 6164.2 - Guidance/Counseling Services)  
(cf. 9005 - Governance Standards)

Students, staff, parents/guardians, and community members should be educated in the recognition, development, and demonstration of civil behavior. The Superintendent or designee may incorporate related concepts in the curriculum, provide staff development activities, and/or communicate this policy to the school community.

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

Students, staff, parents/guardians, and community members shall not communicate or behave in a manner that causes disruption; hinders the orderly conduct of district operations, the

BP 1313(b)

## **CIVILITY (continued)**

educational program, or any other district program or activity; or creates an unsafe learning or working environment. **Safety And Security**

The Superintendent or designee may respond to disruptive, violent, or threatening behavior in accordance with law will ensure that a safety and as specified in BP/AR 3515.2 - /or crisis intervention techniques program is provided in order to raise awarenessDisruptions.

(cf. 0450 - Comprehensive Safety Plan)  
(cf. 1250 - Visitors/Outsiders)  
(cf. 3515.2 - Disruptions)  
(cf. 3515.4 - Recovery for Property Loss or Damage)  
(cf. 3515.7 - Firearms on School Grounds)  
(cf. 3516 - Emergencies how to deal with these situations if and Disaster Preparedness Plan) when they occur.  
(cf. 3516.2 - Bomb Threats)  
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)  
(cf. 4158/4258/4358 - Employee Security)  
(cf. 5131.4 - Student Disturbances)  
(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5131.7 - Weapons and Dangerous Instruments)  
(cf. 5138 - Conflict Resolution/Peer Mediation)

Behavior by students or staff that is discriminatory, harassing, or intimidating, including sexual harassment, bullying, and/or hate violence, or behavior that is in any other way unlawful, is prohibited and is subject to discipline in accordance with law and as specified in district policy and regulations.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4030 - Nondiscrimination in Employment)  
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)  
(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures)  
(cf. 5131 - Conduct)  
(cf. 5131.2 - Bullying)  
(cf. 5144 - Discipline)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 5145.7 - Sexual Harassment)  
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)  
(cf. 5145.9 - Hate-Motivated Behavior)

~~When violence is directed against an employee or Board member, or theft against property, employees/Board members shall promptly report the occurrence to their principal, supervisor or superintendent and complete an Incident Report.~~

~~An employee/Board member whose person or property is injured or damaged by willful misconduct of a student may ask the district to pursue legal action against the student or the student's parent/guardian.~~

### **Documentation**

~~When it is determined by staff that a member of the public is in the process of violating the provisions of this policy, an effort should be made by staff to provide a written copy of this policy, including applicable code provisions, at the time of occurrence.~~

~~Following any violation of the provisions of this policy, the employee will immediately notify his/her supervisor and provide a report of the incident on the attached form.~~

*Legal Reference:* (see next page)

BP 1313(c)

### **CIVILITY (continued)**

Legal Reference:

EDUCATION CODE

200-262.4 Educational equity

32210 Willful disturbance of public school or meeting

32211 Threatened disruption or interference with classes

32212 Classroom interruptions

32280-32289.5 School safety plans

35181 Governing board authority to set policy on responsibilities of students

35291-35291.5 Rules

44050 Employee code of conduct; interaction with students

44807 Teachers' duty concerning conduct of students

44810 Willful interference with classroom conduct

44811 Disruption of classwork or extracurricular activities

48900-48926 Suspension and expulsion, especially:

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

49330-49335 Injurious objects

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

54954.3 Opportunity for public to address legislative body; regulations

54957.9 Disorderly conduct of general public during meeting; clearing of room

32210 Disturbing School

44014 Assault on personnel

44810 Person on school grounds

44811 Insult and abuses

PENAL CODE

243.5 Assault or battery on school property

415243.5 Arrest on school grounds

413.5 Disturbance of peace of ~~Fighting on school grounds~~

422.55 Definition of hate crime

422.6 Civil rights; crimes

626-626.11 School crimes

627-627.10 Access to school premises

653b Loitering about schools or public places

653.2 Electronic communication devices; threats to safety

CALIFORNIA CONSTITUTION

Article 1, Section 2 Freedom of speech and expression

Article 1, Section 28 Right to safe schools

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

COURT DECISIONS

City of San Jose v. Garbett (2010) 190 Cal.App.4th 526

Norse v. City of Santa Cruz (9th Cir. 2010) 629 F.3d 966

Baca v. Moreno Valley Unified School District (1996) 936 F.Supp. 719

Hazelwood School District v. Kuhlmeier (1988) 484 U.S. 260

Management Resources: (see next page)

**CIVILITY (continued)****Management Resources:****CSBA PUBLICATIONS**Superintendent Governance StandardsProfessional Governance Standards for School Boards, June 2019**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**California's Social and Emotional Learning: Guiding Principles, 2018Social and Emotional Learning in California: A Guide to Resources, October 2018**COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS**California Professional Standards for Education Leaders (CPSEL), February 2014**NATIONAL POLICY BOARD FOR EDUCATIONAL ADMINISTRATION**Professional Standards for Educational Leaders, October 2015**WEB SITES**CSBA: <https://www.csba.org>California Department of Education: <https://www.cde.ca.gov>California Office of the Attorney General: <https://oag.ca.gov>Center for Safe and Responsible Internet Use: <https://www.ewa.org/organization/center-safe-and-responsible-internet-use>Commission on Teacher Credentialing: <https://www.ctc.ca.gov>National Council for the Social Studies Connected: <https://connected.socialstudies.org>National Policy Board for Educational Administration: <https://www.npbea.org>National School Safety Center: <http://www.schoolsafety.us>U.S. Department of Education: <https://www.ed.gov>U.S. Equal Employment Opportunity Commission: <https://www.eeoc.gov>

<u>Policy</u>	<u>CSBA MANUAL MAINTENANCE SERVICE</u>
<u>adopted:</u>	<u>June 2021</u>

626.8 Entry of school by person not on lawful business627.7 Refusal to leave school grounds**Business and Noninstructional Operations**

BP 3511.1(a)

**INTEGRATED WASTE MANAGEMENT**

The Governing Board of Trustees believes that the conservation of water, energy, and other natural resources, ~~and~~ the protection of the environment, and the implementation of an effective waste diversion program are connected to the district's educational mission and are essential to the health and well-being of the community. The Superintendent or designee shall develop and ~~or~~ implement a cost-effective, integrated waste management program that incorporates the principles of green school operations.

(cf. 0100 - Philosophy)

(cf. 3510 - Green School Operations)  
(cf. 3511 - Energy and Water Management)  
(cf. 3514 - Environmental Safety)  
(cf. 3514.2 - Integrated Pest Management)

The district's integrated waste management program shall include strategies designed to promote waste management practices of source reduction, recycling, and composting to help the district reduce and recycle solid and organic waste, properly dispose of potentially hazardous materials~~waste generation~~, improve efficiency in ~~theits~~ use of natural resources, and minimize the impact of such use on the environment. The program shall address all areas of the district's operations, including, but not limited to, procurement, resource utilization, and facilities management practices.

(cf. 3300 - Expenditures and Purchases)  
(cf. 3517 - Facilities Inspection)

The Superintendent or designee may collaborate with city, county, and state agencies and other public or private agencies in developing and implementing the district's integrated waste management program.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)  
(cf. 7131 - Relations with Local Agencies)

The Superintendent or designee shall make every effort to identify funding opportunities for the district's integrated waste management program, including applying for available grants or other cost-reduction incentives.

~~TheTo the extent that funding permits, the~~ Superintendent or designee ~~mayshall~~ provide appropriate educational and training opportunities to students and staff regarding the benefits and methods of conserving natural resources and the manner in which integrated waste management strategies impact such efforts~~protecting the environment~~.

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)  
(cf. 6142.5 - Environmental Education)  
(cf. 6142.93 - Science Instruction)

BP 3511.1(b)

### INTEGRATED WASTE MANAGEMENT (continued)

The Superintendent or designee shall regularly monitor all aspects of the district's integrated waste management program and shall provide an update to the Board on its effectiveness as necessary.

~~Legal Reference: (see next page)~~

**~~INTEGRATED WASTE MANAGEMENT (continued)~~**

*Legal Reference:*

EDUCATION CODE

~~8700-8707 Environmental education~~

17070.96 Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards

17072.35 New construction grants; use for designs and materials for high performance schools

32370-32376 Recycling paper

33541 Environmental education

PUBLIC RESOURCES CODE

25410-~~25422~~~~25424~~ Energy conservation assistance

40050-40063 ~~Integrated waste management; integrated~~ waste management

41780-~~41786~~ Waste diversion

42620-42622 Source reduction and recycling programs

42630-42647 School site source reduction and recycling

42649-42649.7 Recycling of commercial solid waste

~~42649.8-42649.87 Recycling of organic~~CODE OF REGULATIONS, TITLE 14

~~17225.12 Commercial solid~~ waste

*Management Resources:*

WEB SITES

*Management Resources:*

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY PUBLICATIONS

Frequently Asked Questions

Recycling and Organics Recycling Guide for Schools Poster

Where to Put It: Recycling, Composting, and Trash Bin Signage

WEB SITES

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

California Department of Resources Recycling and Recovery:

~~http://www.calrecycle.ca.gov/RecycleReduceWaste/Schools~~

California Division of State Architect: <http://www.dgs.ca.gov/dsa>

California Energy Commission: <http://www.energy.ca.gov>

California Environmental Protection Agency: <http://www.calepa.ca.gov>

U.S. Environmental Protection Agency: <http://www.epa.gov>

Policy ~~CSBA MANUAL MAINTENANCE SERVICES~~  
~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

adopted: June 2021 October 1,  
2012 San Mateo, California



## INTEGRATED WASTE MANAGEMENT

For all applicable areas of district operations, the Superintendent or designee shall design an integrated waste management program that minimizes the generation of waste, encourages the recovery and diversion of reusable materials from the waste stream, improves efficiency in the utilization of natural and material resources, and protects the environment. The program shall implement measures and/or practices to:

1. Reduce the consumption of disposable materials, increase the composting of organic materials, and fully utilize all materials prior to disposal

*(cf. 3510 - Green School Operations)*

2. Recycle materials such as paper, glass, plastic, and aluminum

~~Any school site or district facility which generates more than four cubic yards of commercial solid waste per week shall take at least one of the following actions: (Public Resources Code 42649.2; 14 CCR 17225.12)~~

- ~~a. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that may include collection, self-hauling, or other arrangement for the pickup of the recyclable materials~~
- ~~b. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation~~

3. Prefer recycled, biodegradable, and other environmentally preferable products when procuring materials for use in district schools and buildings or contracting for the construction or modernization of any district building

*(cf. 3300 - Expenditures and Purchases)*

*(cf. 3311 - Bids)*

*(cf. 3312 - Contracts)*

*(cf. 7110 - Facilities Master Plan)*

4. Work with city, county, or other government agencies to locate markets for the district's reusable and recyclable materials

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

*(cf. 7131 - Relations with Local Agencies)*

5. Minimize the use of nonbiodegradable materials and work with vendors and contractors to use packaging and delivery materials that generate less waste

## Recycling

Any school site or district facility which generates four or more cubic yards of solid waste per week shall take at least one of the following actions: (Public Resources Code 42649.1, 42649.2)

1. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials
2. Subscribe to a recycling service which may include mixed waste processing that yields diversion results comparable to source separation

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AR 3511.1(b)

### **INTEGRATED WASTE MANAGEMENT (continued)**

Any school site or district facility which generates two or more cubic yards per week of solid waste, recyclables, and organics shall arrange for recycling services specifically for organic waste, including food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Such facilities shall take at least one of the following actions: (Public Resources Code 42649.8, 42649.81-42649.82, 42649.84)

1. Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste
2. Recycle organic waste onsite or self-haul organic waste for recycling
3. Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste
4. Make other arrangements to sell or donate recyclable organic waste materials

Any school site or district facility that meets the above thresholds for solid or organic waste shall place a recycling bin or container for solid or organic waste, as applicable, in areas where food or other materials are purchased at the facility for immediate consumption. The recycling bin or container shall be: (Public Resources Code 42649.2, 42649.81)

1. Adjacent to each bin or container for nonrecyclable trash, except in restrooms
2. Visible and easily accessible

3. Clearly marked with educational signage indicating appropriate items to be placed in the recycling bin or container in accordance with state law and the local jurisdiction's waste ordinances and practices

Regulation CSBA MANUAL MAINTENANCE SERVICES ~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

approved: \_\_\_\_\_ June 2021

**All Personnel**

BP 4112.42(a)

4212.42

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

4312.42

The Governing Board ~~of Trustees~~ desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

*(cf. 3540 - Transportation)*

*(cf. 3542 - School Bus Drivers)*

*(cf. 3543 - Transportation Safety and Emergencies)*

*(cf. 4020 - Drug and Alcohol-Free Workplace)*

*(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)*

A driver shall not report for duty or remain on duty when the driver~~he/she~~ has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when the driver~~he/she~~ has used any drug listed in 21 CFR 1308.12-1308.15, unless the driver~~he/she~~ is using the drug under the direction of a physician who has advised the driver~~him/her~~ that the substance will not adversely affect the driver's ability to safely operate a bus. (49 CFR 382.201-382.209, 382.213)~~In addition, a driver shall not consume alcohol while on duty or for four hours prior to on-duty time. (49 CFR 382.201-382.209, 382.213)~~

In addition, a driver shall not consume alcohol while on duty and/or performing safety-sensitive functions, or for four hours prior to on-duty time. (49 CFR 382.205, 382.207)

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

### **Consequences Based on Test Results**

~~Any driver who refuses to take a required drug or alcohol test, tests positive for drugs, or is found to have a blood alcohol concentration level that exceeds the levels specified in law shall be removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211.~~

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test for a drug or drug metabolite before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver from the Federal Motor Carrier Safety Administration. (49 CFR 40.3, ~~(49 CFR~~ 40.21, 382.107, 382.119)

BP\_

4112.42(b)

4212.42

4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

4212.42

4312.42

### **~~DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)~~**

Any driver for whom the district receives a verified positive drug test result or who is found to have a blood alcohol concentration of 0.04 or higher shall be immediately removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions. (49 CFR 40.23, 382.211)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Any driver provided with~~who refuses, fails to comply, or has a positive test result may be referred to~~ an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. ~~(education and treatment program that meets the requirements of 49 CFR 40.289)~~

~~281 40.313.~~ If the substance abuse professional recommends that **further and** ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor the driver's~~his/her~~ compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

*(cf. 4159/4259/4359 - Employee Assistance Programs)*

*(cf. 4161/4261/~~4361~~ - Leaves)*

*(cf. ~~4161.1/4361.1~~ - Personal Illness/Injury Leave)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

*(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*

*(cf. 4261.1 - Personal Illness/Injury Leave)*

~~A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.~~

~~*(cf. 4117.4 - Dismissal)*~~

~~*(cf. 4118 - Suspension/Disciplinary Action)*~~

~~*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*~~

## **Voluntary Self-Identification**

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

BP 4112.42(c)

4212.42

4312.42

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over ~~the~~his/her drug or alcohol problem.

BP 4112.42(c)

~~4212.42~~

~~4312.42~~

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

3. The driver shall be permitted to participate in safety-sensitive functions only after:
  - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
  - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that ~~the driver~~he/she does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until ~~the driver~~he/she has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

*Legal Reference: (see next page)*

4112.42(d)

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4212.42

4312.42

## DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

### Legal Reference:

#### EDUCATION CODE

35160 Authority of governing boards

#### GOVERNMENT CODE

8355 Drug-free workplace; employee notification

#### VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

#### CODE OF REGULATIONS, TITLE 13

1200-~~1294~~~~1293~~ Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

#### UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

#### UNITED STATES CODE, TITLE 49

31306 -Alcohol and drug testing

#### CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15- Controlled substances

#### CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

382.101-382.~~727~~~~605~~ Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

### Management Resources:

#### CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, ~~2017~~~~2007~~

What is CSAT? Controlled Substances and Alcohol Testing, ~~2016~~~~2005~~

#### WEB SITES

#### WEB SITES

California Department of Motor Vehicles: <https://www.dmv.ca.gov>

California Highway Patrol: <http://www.chp.ca.gov>

Commercial Driver's License Drug and Alcohol Clearinghouse: <https://clearinghouse.fmcsa.dot.gov>

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

Policy ~~CSBA MANUAL MAINTENANCE SERVICES~~ ~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

adopted: ~~June~~ 2021 ~~November~~ 14,  
2013 ~~San Mateo, California~~

## All Personnel

4112.42(a)

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4212.42

## DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

### Definitions

For purposes of drug testing required by the U.S. Department of Transportation (DOT), ~~drugs include~~included in the tests are marijuana, cocaine, amphetamines, phencyclidine (PCP), and ~~opioids~~opiates. (49 CFR 40.3, 40.85, 382.107)

*Alcohol concentration* ~~(or content)~~level means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. ~~(49 CFR 40.3, 382.107. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24 hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety-sensitive functions until the driver has successfully completed the return-to-duty process. (49 CFR 382.107, 382.201, 382.505))~~

*Safety-sensitive function* means all time from the time ~~the~~a driver begins to work or is required to be in readiness to work until the time ~~the driver~~he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus or other school transportation vehicle; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the ~~vehicle~~bus or ~~vehicle~~bus equipment; loading or unloading the ~~vehicle~~bus; supervising or assisting in the loading or unloading of the ~~vehicle~~bus; and repairing, obtaining assistance, or remaining in attendance upon a disabled ~~vehicle~~bus. (49 CFR 382.107)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

### Designated Employer Representative

The Superintendent or designee shall identify a designated employer representative who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided~~and shall provide his/her name and telephone number~~ to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)



~~The designated employer representative shall be responsible for receiving test results and other communications, taking immediate action(s) to remove drivers from safety-sensitive functions, and making other required decisions in the testing and evaluation processes. (49 CFR 40.3)~~

### **Pre-employment Testing**

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)~~request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25, from any employer who has employed the driver at any time during the previous two years. In addition, the Superintendent or designee shall ask the driver if he/she tested positive, or refused to test, on any pre-employment drug or alcohol test that was administered~~

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and 382.413, from any employer who has employed the driver at any time during the previous three years. To the

AR.

4112.42(b)

4212.42

4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

4212.42

4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions. In addition, the Superintendent or designee shall ask the driver if there was a positive test, or a refusal to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that ~~was~~he/she did not obtained. (49 CFR 40.25, 382.413)

~~obtain.~~ The driver shall not be permitted to perform safety-sensitive functions if the driver~~he/she~~ refuses to provide consent to obtain the information from previous employers or from the Clearinghouse; the information from previous employers is not received within 30

days of the date on which the driver first performed safety-sensitive functions for the district;  
or the driver, the Clearinghouse, or a previous employer reports a violation of a drug or alcohol  
regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25,  
382.413, 382.701, 382.703)

~~A~~ Upon making a contingent offer of employment to a driver whom the district intends to hire  
or use shall undergo testing for drugs and receive a verified negative test result and prior to the  
first time the driver performs safety-sensitive functions for the district, ~~the Superintendent or  
designee shall require the driver to undergo testing for drugs and to receive a verified negative  
test result.~~ This testing requirement may be waived if all of the following conditions exist: (49  
CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30  
days.
2. While participating in the program, the driver either was tested within the past six  
months from the date of application or participated in a random drug testing program  
for the previous 12 months from the date of application.
- ~~33. The Superintendent or designee has contacted the testing program(s) in which the  
driver has participated and has obtained information about the program and the driver's  
participation as specified in 49 CFR 382.301.~~
4. No prior employer of the driver of whom the district has knowledge has records of the  
driver's violation of federal drug testing regulations within the previous six months.

The Superintendent or designee shall contact the testing program(s) in which the driver has  
participated and obtain information about the program and the driver's participation as  
specified in 49 CFR 382.301.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment  
alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test  
result indicating an alcohol concentration ~~level~~ of less than 0.04. (49 CFR 382.301)

AR4112.42(c)

4212.42

4312.42

## DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

### **Post-Accident Testing**

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.

AR 4112.42(e)

4212.42

4312.42

#### **~~DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS~~ (continued)**

2. The driver receives a citation for a moving traffic violation~~alcohol use~~ within eight hours of the accident, ~~or for drug use within 32 hours of the accident~~, and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

#### **Random Testing**

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

~~Such tests shall be~~ unannounced and conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

AR 4112.42(d)

4212.42

4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

#### **Reasonable Suspicion Testing**

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

AR 4112.42(d)

4212.42

4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, ~~the Superintendent or designee shall prepare and sign~~ a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

### **Return-to-Duty Testing**

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and

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AR4112.42(e)

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4212.42

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4312.42

### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

has ~~a~~ taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

### **Follow-Up Testing**

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

### **~~AR~~Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse**

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

~~4112.42(e)~~

~~4212.42~~

~~4312.42~~

#### **~~DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS~~ (continued)**

##### **Notifications**

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing

~~AR4112.42(f)~~

~~4212.42~~

~~4312.42~~

#### **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.~~113303~~, 382.~~303413~~, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct

5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04

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~~AR 4112.42(f)~~

~~4212.42~~

~~4312.42~~

**~~DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)~~**

11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management

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~~AR 4112.42(g)~~

~~4212.42~~

~~4312.42~~

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)**

12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Each driver shall sign a statement certifying receipt of~~that he/she has received~~ a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

### **Records**

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

(cf. 3580 - District Records)

Regulation CSBA MANUAL MAINTENANCE SERVICES~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~  
approved: June 2021 November 14,  
2013 San Mateo, California

### **Certificated and Classified Personnel**

BP -4141(a)  
4241

### **COLLECTIVE BARGAINING AGREEMENT**

The Governing ~~Board of Trustees~~ recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.



(cf. 4140/4240/4340 - Bargaining Units)  
(cf. 4143/4243 - Negotiations/Consultation)

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.

(cf. 9310 - Board Policies)

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

Legal Reference: (see next page)

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BP 4141(b)  
4241

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## COLLECTIVE BARGAINING AGREEMENT (continued)

*Legal Reference:*

EDUCATION CODE

35035 Additional powers and duties of superintendent, transfer authority

35036 Voluntary transfers

35160 Authority of governing boards

35160.1 Broad authority of school districts

45220-45320 Merit system, classified employees

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

COURT DECISIONS

Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448

United Teachers of Los Angeles v. Los Angeles Unified School District (2012) 54 Cal. 4th 504

Round Valley Teachers Association (1996) 13 Cal. 4th 269

Management Resources:

~~Management Resources:~~

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining  
WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

Policy	CSBA MANUAL MAINTENANCE SERVICE
Policy	<b>SAN MATEO UNION HIGH SCHOOL DISTRICT</b>
adopted: June	2021 July 15,
2010	San Mateo, California

**All Personnel**

BP 4158(a)

4258

**EMPLOYEE SECURITY**

4358

The Governing Board of Trustees desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

(cf. 3515.2 - Disruptions)

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order

on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

*(cf. 4161.2/4261.2/4361.2 - Personal Leaves)*

The Superintendent or designee may pursue legal action on behalf of an employee against a student or ~~the student's~~his/her parent/guardian to recover damages for injury to the employee's person~~employee~~ or ~~his/her~~ property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's~~his/her~~ duties. (Education Code 48904, 48905)

*(cf. 3320 - Claims and Actions Against the District)*

*(cf. 3515.4 - Recovery for Property Loss or Damage)*

*(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)*

*(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)*

The Superintendent or designee shall provide staff development~~ensure that employees receive training~~ in crisis prevention and intervention techniques, ~~which in order to protect themselves and students. Staff development~~ may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

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## EMPLOYEE SECURITY (continued)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

In accordance with law, the~~The~~ Superintendent or designee ~~also~~ shall inform teachers, administrators, and/or counselors~~in accordance with law,~~ of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

	<del>BP 4158(b)</del>
	<del>4258</del>
	<del>4358</del>

## ~~EMPLOYEE SECURITY (continued)~~

### Use of Pepper Spray

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

### Reporting of Injurious Objects

~~Employees shall~~~~The Board requires employees to~~ take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. ~~Employees~~~~The employee~~ shall exercise their best~~use his/her own~~ judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

(cf. 3515.7 - Firearms on School Grounds)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

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	<del>4258</del>
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## **EMPLOYEE SECURITY (continued)**

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

When informing the principal about the possession or seizure of a weapon or dangerous device, ~~an~~**the** employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

*Legal Reference: (see next page)*

**BP 4158(c)**

**4258**

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## **EMPLOYEE SECURITY (continued)**

*Legal Reference:*

### **EDUCATION CODE**

32210-32212 Willful disturbance, public schools or meetings

32225-32226 Communication devices

35208 Liability insurance

35213 Reimbursement for loss, destruction or damage of school property

44014 Report of assault by pupil against school employee

44807 Duty concerning conduct of students

48201 Transfer of student records

48900-48926 Suspension or expulsion

49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion

49330-49335 Injurious objects

### **CIVIL CODE**

51.7 Freedom from violence or intimidation

### **CODE OF CIVIL PROCEDURE**

527.8 Workplace violence safety

### **GOVERNMENT CODE**

995-996.4 Defense of public employees

3543.2 Scope of representation

### **12926 Definitions**

### **LABOR CODE**

**230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies**

### **PENAL CODE**

71 Threatening public officers and employees and school officials

240-246.3 Assault and battery, especially:

241.3 Assault against school bus drivers

241.6 Assault on school employee including board member

243.3 Battery against school bus drivers

243.6 Battery against school employee including board member

245.5 Assault with deadly weapon against school employee including board member

290 Registration of sex offenders

601 Trespass by person making credible threat  
 626-626.11 School crimes  
 646.9 Stalking  
18150 Gun violence restraining orders  
18170 Gun violence restraining order issued after notice and hearing  
 22810 Purchase, possession, and use of tear gas

Legal Reference continued: (see next page)

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## **EMPLOYEE SECURITY (continued)**

Legal Reference: (continued)

### WELFARE AND INSTITUTIONS CODE

827 Juvenile court proceedings; reports; confidentiality

828.1 District police or security department, disclosure of juvenile records

### COURT DECISIONS

City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

### WEB SITES

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

California Department of Education, Safe Schools ~~and Violence Prevention Office:~~

<http://www.cde.ca.gov/ls/ss>

Policy ~~CSBA MANUAL MAINTENANCE SERVICES~~ ~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

adopted: June 2021 September 27,  
2018 San Mateo, California

**All Personnel**

AR 4158(a)

4258

**EMPLOYEE SECURITY**

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An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

~~(cf. 3515.2 - Disruptions)~~  
~~(cf. 3515.3 - District Police/Security Department)~~  
~~(cf. 5131.7 - Weapons and Dangerous Instruments)~~  
~~(cf. 5144 - Discipline)~~  
3515.4 - Recovery for Property Loss or Damage  
~~(cf. 3530 - Risk Management/Insurance)~~  
~~(cf. 5131.7 - Weapons and Dangerous Instruments)~~  
~~(cf. 5144 - Discipline)~~

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against ~~the employee~~~~him/her~~ by a student or by any other individual in relation to the ~~employee's~~ performance of ~~the employee's his/her~~ duties, and any action the employee took in response. Reports of an attack, assault, or physical threat shall be forwarded immediately to the Superintendent or designee.

~~(cf. 3515.2 - Disruptions)~~

~~Reports of attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.~~

~~(cf. 3320 - Claims and Actions Against the District)~~  
~~(cf. 3515.4 - Recovery for Property Loss or Damage)~~  
~~(cf. 3530 - Risk Management/Insurance)~~

In addition, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. (Education Code 44014)

## **Notice Regarding Student Offenses ~~Committed While Under School Jurisdiction~~**

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

### 1. Acts That Are Grounds for Suspension or Expulsion

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR 5144.1 - Suspension and Expulsion/Due Process. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

(cf. ~~4112.9/4212.9/4312.9 - Employee Notifications~~)  
(cf. ~~5125 - Student Records~~)  
(cf. ~~5144.1 - Suspension and Expulsion/Due Process~~)

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in ~~his/her~~ suspension or expulsion, the Superintendent or

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### EMPLOYEE SECURITY (continued)

\_\_\_\_\_ designee shall inform the student's teacher(s) that the student was suspended from school or expelled from ~~the~~~~his/her~~ former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

AR 4158(b)

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### ~~EMPLOYEE SECURITY (continued)~~

### ~~2. Notice Regarding Student Offenses Reported~~ Committed While Outside School Jurisdiction

~~When a minor student has been found by a court of competent jurisdiction to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence, the District by a Court district police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)~~

(cf. ~~3515.3 - District Police/Security Department~~)

- a. When informed by ~~a~~~~the~~ court that a minor student has been found by ~~the~~~~a~~ court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the



Superintendent or designee shall expeditiously notify~~so inform~~ the school principal. (Welfare and Institutions Code 827)

- b. The principal shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to. ~~The principal shall also inform~~ any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal~~he/she~~ thinks may need the information in order~~so as~~ to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)
- d. When a student is removed from school as a result of an~~his/her~~ offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)

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**EMPLOYEE SECURITY (continued)**

- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

	AR 4158(c)
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## ~~EMPLOYEE SECURITY (continued)~~

### ~~Procedures to Maintain Confidentiality of Student Offenses~~

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher~~counselors and teachers of classes/programs to which a student is assigned~~, the principal or designee shall send the staff member a written notification that a student~~one of his/her students~~ has committed an offense that requires ~~his/her~~ review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall ~~be asked to~~ initial the notification and ~~return it to the principal or designee~~. ~~He/she~~ shall also initial the student's file when reviewing it in the school office.

### Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime

*(cf. 4161.2/4261.2/4361.2 - Personal Leaves)*

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (Labor Code 230)

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## **EMPLOYEE SECURITY (continued)**

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking. Such certification may include: (Labor Code 230)

1. A police report indicating that the employee was a victim
2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a licensed medical professional or health care provider, domestic violence or sexual assault counselor, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf

Any verbal or written statement, police or court record, or other documentation identifying an employee as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (Labor Code 230)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (Labor Code 230)

The district shall not retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (Labor Code 230)

**EMPLOYEE SECURITY (continued)****Use of Pepper Spray**

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee. Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

approved: June 2021 ~~September 27, 2018~~  
~~San Mateo, California~~

## Students

BP 5141.4(a)

### CHILD ABUSE PREVENTION AND REPORTING

The Governing ~~Board of Trustees~~ is committed to supporting the safety and well-being of district students and desires to facilitate the prevention of and response to child abuse and neglect. The Superintendent or designee shall develop and implement strategies for preventing, recognizing, and promptly reporting known or suspected child abuse and neglect.

The Superintendent or designee may provide a student who is a victim of abuse with school-based mental health services or other support services and/or may refer the student to resources available within the community as needed.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools ~~1020 - Youth Services~~)

(cf. 5141.5 - Mental Health)

(cf. 5141.6 - School Health Services)

(cf. 6164.2 - Guidance/Counseling Services)

#### Child Abuse Prevention

The district's instructional program may provide ~~shall include~~ age-appropriate and culturally sensitive child abuse prevention curriculum which explains. ~~This curriculum shall explain~~ students' right to live free of abuse, includes ~~include~~ instruction in the skills and techniques needed to identify unsafe situations and react appropriately and promptly, informs ~~inform~~ students of available support resources, and teaches ~~teach~~ students how to obtain help and disclose incidents of abuse.

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

The district's program also may include age-appropriate curriculum in sexual abuse and sexual assault awareness and prevention. Upon written request of a student's parent/guardian, the student shall be excused from taking such instruction. (Education Code 51900.6)

The Superintendent or designee may display posters, in areas on campus where students frequently congregate, notifying students of the appropriate telephone number to call to report child abuse or neglect. (Education Code 33133.5)

In addition, student identification cards for students in grades 7-12 shall include the National Domestic Violence Hotline telephone number. (Education Code 215.5)

(cf. 5142 - Safety)

The Superintendent or designee shall, to the extent feasible, seek to incorporate community resources into the district's child abuse prevention programs and may use these resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

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BP 5141.4(b)

### **CHILD ABUSE PREVENTION AND REPORTING (continued)**

#### **Child Abuse Reporting**

The Superintendent or designee shall establish procedures for the identification and reporting of known and suspected child abuse and neglect in accordance with law.

*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*

Procedures for reporting child abuse shall be included in the district and/or school comprehensive safety plan. (Education Code 32282)

*(cf. 0450 - Comprehensive Safety Plan)*

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BP 5141.4(b)

### **~~CHILD ABUSE PREVENTION AND REPORTING (continued)~~**

District employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect.

The Superintendent or designee shall provide training regarding the duties of mandated reporters as required by law and as specified in the accompanying administrative regulation. (Education Code 44691; Penal Code 11165.7).

*Legal Reference: (see next page)*

**CHILD ABUSE PREVENTION AND REPORTING (continued)**

*Legal Reference:*

EDUCATION CODE

215.5 Student identification cards with National Domestic Violence Hotline telephone number

32280-32289.532288- Comprehensive school safety plans

33133.5 Posters of telephone number for students to report child abuse or neglect

33195 Heritage schools, mandated reporters

33308.1 Guidelines on procedure for filing child abuse complaints

44252 Teacher credentialing

44691 Staff development in the detection of child abuse and neglect

44807 Duty concerning conduct of students

48906 Notification when student released to peace officer

48987 Dissemination of reporting guidelines to parents

49001 Prohibition of corporal punishment

51220.5 Parenting skills education

51900.6 Sexual abuse and sexual assault awareness and prevention instruction

CODE OF CIVIL PROCEDURE

340.1 Damages suffered as a result of childhood sexual abuse

PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act

273a Willfully causing Willful cruelty or unjustifiable pain or mental sufferingpunishment of child;  
endangering life or health

286 Crime of sodomy

287 Crime of oral copulation

288 Definition of lewd or lascivious act requiring reporting

289 Crime of sexual penetration

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

3200-32054650 Filing complaints with CDE; special education students

UNITED STATES CODE, TITLE 42

11434a McKinney-Vento Homeless Assistance Act; definitions

COURT DECISIONS

Camreta v. Greene (2011) 131 S.Ct. 2020

*Management Resources: (see next page)*

~~CHILD ABUSE PREVENTION AND REPORTING (continued)~~

CHILD ABUSE PREVENTION AND REPORTING (continued)

*Management Resources:*

CSBA PUBLICATIONS

*Why Schools Hold the Promise for Adolescent Mental Health, Governance Brief, May 2019*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve*

*Health Framework for California Public Schools, Kindergarten Through Grade Twelve*

WEB SITES

California Attorney General's Office, Suspected Child Abuse Report Form:

~~[https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/pdf/ss\\_8572.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/pdf/ss_8572.pdf)~~

California Department of Education, *Child Abuse Prevention Training and Resources*~~*Safe Schools:*~~

<http://www.cde.ca.gov/ls/ss/ap>

California Department of Social Services, *Information Resources Guide*~~*Children and Family Services*~~

~~*Division:*~~ <http://www.childsworld.ca.gov>

U.S. Department of Health and Human Services, Child Welfare Information Gateway:

~~<https://www.childwelfare.gov>~~

Policy ~~CSBA MANUAL MAINTENANCE SERVICES~~ ~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

adopted: June 2021 August 13, 2015 San Mateo, California



## CHILD ABUSE PREVENTION AND REPORTING

### Definitions

*Child abuse or neglect* includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child by another person
2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child as defined in Penal Code 11165.2
4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

*Child abuse or neglect* does not include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of ~~his/her~~ employment (Penal Code 11165.5, 11165.6)

~~(cf. 3515.3 - District Police/Security Department)~~

(cf. 3515.3 - District Police/Security Department)

3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be legally privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)

4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense~~to protect himself/herself~~, or to obtain weapons or other dangerous objects within the control of a student (Education Code 49001)

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

AR 5141.4(b)

## **CHILD ABUSE PREVENTION AND REPORTING** (continued)

5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by a student (Education Code 49001)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145.2 - Athletic Competition)

6. Homelessness or classification as an unaccompanied minor (Penal Code 11165.15)

*Mandated reporters* include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; athletic coaches, administrators, and directors; licensees, administrators, and employees of a licensed child day care facility; Head Start program teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

*Reasonable suspicion* means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on the person's~~his/her~~ training and experience, to suspect child abuse or neglect. However, *reasonable suspicion* does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. (Penal Code 11166)

### **Reportable Offenses**

A mandated reporter shall make a report using the procedures provided below whenever, acting in his/her professional capacity or within the scope of his/her employment, the mandated reporter~~he/she~~ has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional

damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11165.9, 11166.05, 11167)

Any district employee who reasonably believes to have~~that he/she has~~ observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

AR 5141.4(c)

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

### **Responsibility for Reporting**

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom the person~~he/she~~ knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

*(cf. 1240 - Volunteer Assistance)*

### **Reporting Procedures**

#### **1. Initial Telephone Report**

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11165.9, 11166)

Such reports shall be made to the following agency(ies):

Child Protective Services  
555 County Center, 2nd Floor  
Redwood City, CA 94063-1654  
(650) 595-7922  
(866) 366-8221

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

AR 5141.4(d)

## **CHILD ABUSE PREVENTION AND REPORTING** (continued)

### 2. Written Report

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall ~~then~~ prepare and either send, fax, or electronically ~~transmits~~submit to the appropriate agency a written follow-up report, which includes a completed California Department of Justice (DOJ) form (BCIASS 8572). (Penal Code 11166, 11168)

The ~~DOJ~~Department of Justice form may be obtained from the district office or other appropriate agencies, such as the police department, sheriff's department, or county probation or welfare department ~~or the police or sheriff's department~~.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location, and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child

- e. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information

\_\_\_\_\_The mandated reporter shall make a report even if some of this information is not known or is uncertain to the mandated reporter.~~him/her~~. (Penal Code 11167)

\_\_\_\_\_The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code 11166.05. (Penal Code 11167)

### 3. Internal Reporting

The mandated reporter shall not be required to disclose the mandated reporter's~~his/her~~ identity to a~~his/her~~ supervisor, the principal, or the Superintendent or designee. (Penal Code 11166)

AR 5141.4(e)

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

\_\_\_\_\_The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

\_\_\_\_\_Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

### **Training**

Within the first six weeks of each school year, or within the first six weeks of employment if hired during the school year, the Superintendent or designee shall provide training on mandated reporting requirements to district employees and persons working on their behalf who are mandated reporters. ~~Any school personnel hired during the school year shall receive such training within the first six weeks of employment.~~ (Education Code 44691; Penal Code 11165.7)

~~(cf. 4131 - Staff Development)~~  
~~(cf. 4231 - Staff Development)~~  
~~(cf. 4331 - Staff Development)~~

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

The Superintendent or designee shall use the online training module provided by the California Department of Social Services (CDSS).- (Education Code 44691)

The training shall include, but not necessarily be limited to, training in identification and reporting of child abuse and neglect. In addition, the training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect as required by law is a misdemeanor punishable by imprisonment and/or a fine as specified. (Education Code 44691; Penal Code 11165.7)

The Superintendent or designee shall obtain and retain proof of each mandated reporter's completion of the training. (Education Code 44691)

In addition, at least once every three years, school personnel may receive training in the prevention of child abuse, including sexual abuse, on school grounds, by school personnel, or in school-sponsored programs. (Education Code 44691)

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AR 5141.4(f)

### **CHILD ABUSE PREVENTION AND REPORTING (continued)**

#### **Victim Interviews by Social Services**

Whenever ~~CDSS~~~~the Department of Social Services~~ or another government agency is investigating suspected child abuse or neglect that occurred within the child's home or out-of-home care facility, the student may be interviewed by an agency representative during school hours, on

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AR 5141.4(f)

### ~~**CHILD ABUSE PREVENTION AND REPORTING (continued)**~~

school premises. The Superintendent or designee shall give the student the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the student. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform the person~~him/her~~ of the following requirements prior to the interview: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable the child~~him/her~~ to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

### **Release of Child to Peace Officer**

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. (Education Code 48906)

*(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)*

### **Parent/Guardian Complaints**

Upon request, the Superintendent or designee shall provide parents/guardians with procedures for reporting suspected child abuse occurring at a school site to appropriate

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AR 5141.4(g)

### **CHILD ABUSE PREVENTION AND REPORTING (continued)**

agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those guidelines and/or procedures, an interpreter shall be provided.

**~~CHILD ABUSE PREVENTION AND REPORTING~~ (continued)**

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee shall also file a report whenis obligated to do so pursuant to Penal Code 11166 ~~to file a report himself/herself~~ using the procedures described above for mandated reporters.

~~(cf. 1312.1 - Complaints Concerning District Employees)~~

~~(cf. 1312.1 - Complaints Concerning District Employees)~~

~~(cf. 3320 - Claims and Actions Against the District)~~

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 3200-3205~~4650~~.

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

**Notifications**

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

~~(cf. 4112.9/4212.9/4312.9 - Employee Notifications)~~

Before beginning employment, any person who will be a mandated reporter by virtue of the person's~~his/her~~ position shall sign a statement indicating ~~that he/she has~~ knowledge of the reporting obligations under Penal Code 11166 and compliance will comply with such~~those~~ provisions. The signed statement shall be retained by the Superintendent or designee. (Penal Code 11166.5)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee also shall notify all employees that:



1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of ~~the mandated reporter's~~his/her professional capacity or outside the scope of ~~his/her~~employment. Any other person making a

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AR 5141.4(h)

#### CHILD ABUSE PREVENTION AND REPORTING (continued)

\_\_\_\_\_ report shall not incur civil or criminal liability unless it can be proven that ~~the person~~he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)

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AR 5141.4(h)

#### ~~CHILD ABUSE PREVENTION AND REPORTING (continued)~~

2. If a mandated reporter fails to timely report an incident of known or reasonably suspected child abuse or neglect, ~~the mandated reporter~~he/she may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166)
3. No employee shall be subject to any sanction by the district for making a report unless it can be shown that ~~the employee~~he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11166, 11172)

Regulation CSBA MANUAL MAINTENANCE SERVICES ~~SAN MATEO UNION HIGH SCHOOL DISTRICT~~

approved: June 2021 August 13,  
2015 San Mateo, California

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