

Regulation 4158/4258/4358: Employee Security

Status: DRAFT

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An employee may use reasonable and necessary force for ~~his/her~~ self-defense, or defense of another person, ~~or protection of property~~; 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. 5131.7 – Weapons and Dangerous Instruments)~~

~~(cf. 5144 – Discipline)~~

Employees

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

Both

In addition, the employee and the principal or other immediate supervisor shall promptly report ~~such instances to the appropriate~~ to local law enforcement ~~agency.~~ (Education Code 44014)

~~In addition, employees shall promptly report to the principal or supervisor, and may report to law enforcement, any authorities an~~ attack, assault, or physical threat made against ~~them on school grounds~~ the employee by any other individual a student. (Education Code 44014)

~~(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)~~

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 ~~has engaged in, or is reasonably suspected of, any act,~~ during the previous three school years ~~which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of,~~ has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, ~~or Education Code 48900.2, 48900.3, 48900.4, or 48900.7 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. 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 designee shall inform the student's teacher(s) that the student was suspended ~~from school~~ or expelled from ~~his/her~~ the 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)

~~Notice Regarding Student Offenses Committed While Outside School Jurisdiction Reported~~

~~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 police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)~~

2. (cf. 3515.3—District Police/Security Department) by a Court

a. When informed by ~~the~~ a court that a minor student has been found by ~~a~~ the 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 ~~so inform~~ expeditiously notify 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. ~~The principal also may inform and to~~ any teacher or administrator ~~he/she directly supervising or reporting on the student's behavior or progress whom the principal~~ thinks may need the information ~~so as in order~~ 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 ~~his/her~~ an 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) 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)

~~Procedures to Maintain Confidentiality of Student Offenses~~

In order to maintain confidentiality when providing information about student offenses to ~~counselors and teachers of classes/programs to which a student is assigned~~ a counselor or teacher, the principal or designee shall send the staff member a written notification that ~~one of his/her students~~ a student 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 shall also initial the ~~principal or designee~~ student's file when reviewing it in the school office.

~~The staff member shall also initial the student's file when reviewing it in the school office. Once the district has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare-~~

~~and Institutions Code 827, an employee's failure to review the file constitutes district compliance with the requirement to provide notice to the teacher.~~

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

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)

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)

Use of Pepper Spray

~~Employees who possess pepper spray on school property shall be notified of the following conditions:~~

~~1-~~

~~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 pepperspray shall be used only in self-defense pursuant to Penal Code 22810.

~~2-~~

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 – Suspension/Disciplinary Action}~~

~~{cf. 4218 – Dismissal/Suspension/Disciplinary Action}~~

3. ~~3.~~ Employees shall ensure that the pepper spray is must be stored in a secure place and not be accessible to students or other individuals. ~~An employee who is negligent in the~~ Negligent storage of the pepper spray may ~~be~~ subject the employee to disciplinary action.

~~Employees wishing to carry pepper spray on school property or to a school-related activity shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. Should the Superintendent or designee determine that the employee may not carry pepper spray, the employee shall receive a written statement of the reason for this determination.~~

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.-

State References

Description

CCP. 527.8

Workplace violence safety -
<https://simbli.eboardsolutions.com/SU/zzBhO3hWGUr7lplusYiDNCP8A>
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Civ. Code 51.7

Freedom from violence or intimidation -
<https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7Z>
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Ed. Code 32210-32212

Willful disturbance, public schools or meetings

Ed. Code 32225-32226

Communications devices in classrooms

Ed. Code 35208

Liability insurance

Ed. Code 35213

Reimbursement for loss or damage of personal property

Ed. Code 44014

Report of assault by pupil against school employee

Ed. Code 44807

Teachers' duty concerning conduct of students

<u>Ed. Code 48201</u>	<u>Transfer of student records</u>
<u>Ed. Code 48900-48926</u>	<u>Suspension and expulsion</u>
<u>Ed. Code 49079</u>	<u>Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion</u>
<u>Ed. Code 49330-49335</u>	<u>Injurious objects</u>
<u>Gov. Code 3543.2</u>	<u>Scope of representation</u>
<u>Gov. Code 995-996.4</u>	<u>Defense of public employees</u>
<u>Pen. Code 22810</u>	<u>Purchase, possession, and use of tear gas</u>
<u>Pen. Code 240-246.3</u>	<u>Assault and battery</u>
<u>Pen. Code 241.3</u>	<u>Assault against school bus drivers</u>
<u>Pen. Code 241.6</u>	<u>Assault on school employee including board member</u>
<u>Pen. Code 243.3</u>	<u>Battery against school bus drivers</u>
<u>Pen. Code 243.6</u>	<u>Battery against school employee including board members</u>
<u>Pen. Code 245.5</u>	<u>Assault with deadly weapon against school employee including board member</u>
<u>Pen. Code 290</u>	<u>Registration of sex offenders</u>
<u>Pen. Code 601</u>	<u>Trespass by person making credible threat</u>
<u>Pen. Code 626-626.11</u>	<u>School crimes</u>
<u>Pen. Code 646.9</u>	<u>Stalking</u>
<u>Pen. Code 71</u>	<u>Threatening public officers and employees and school officials</u>
<u>W&I Code 827</u>	<u>Juvenile court proceedings; reports; confidentiality</u>
<u>W&I Code 828.1</u>	<u>District police or security department, disclosure of juvenile records</u>

<u>Management Resources References</u>	<u>Description</u>
<u>Court Decision</u>	<u>City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526</u>
<u>Website</u>	<u>California Department of Education, Safe Schools - https://simbli.eboardsolutions.com/SU/AxdFslshFpyQ1QP0821fOy9pg==</u>
<u>Website</u>	<u>CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==</u>
<u>5144</u>	<u>Discipline - https://simbli.eboardsolutions.com/SU/GUjXZGgLychnQJg82bMnFA==</u>
<u>5144.1</u>	<u>Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/Y4XL4H8ixkiprZD95kd0Fg==</u>
<u>5144.1</u>	<u>Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/OHOKwVtjrugYRNqSSy4fOA==</u>
<u>5144.2</u>	<u>Suspension And Expulsion/Due Process (Students With Disabilities) - https://simbli.eboardsolutions.com/SU/BzWPYoN0gYoplusGFT27oOhtw==</u>
<u>5144.2-E(1)</u>	<u>Suspension And Expulsion/Due Process (Students With Disabilities) - Addendum To Selpa Notice Of IEP Meeting - https://simbli.eboardsolutions.com/SU/zH44WhmqOplusnHhtP1MaRj4A==</u>