

CSBA Sample

Board Policy

All Personnel

BP 4158(a)

4258

EMPLOYEE SECURITY

4358

Note: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation ~~are optional~~ and may be revised to reflect district practice **and the terms of the district's collective bargaining agreements.**

The Governing Board 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)

Note: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval or a school administrator or designee.

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.**

EMPLOYEE SECURITY (continued)

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)

Note: Pursuant to Education Code 48904 and 48905, provides that an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student, or his/her the student's parent/guardian, pursuant to Education Code 48904. Education Code 48904 provides that a parent/guardian will be liable for damages caused by his/her minor child's willful misconduct resulting in injury to a district student, employee, or volunteer or damage to district or employee property. Also sSee BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or his/her the student's parent/guardian to recover damages for injury to the employee's person 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 his/her the employee's 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 ensure that employees receive training provide staff development 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.

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

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

EMPLOYEE SECURITY (continued)

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)

Use of Pepper Spray

Note: The following section is **optional** and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

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

Note: The following **optional** section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who **initially** notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for **such action violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.**

~~The Board requires employees to~~ **Employees shall** 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. ~~The e~~**Employees** shall ~~use his/her own~~ **exercise their best** judgment as to the potential danger involved and shall do one of the following:

EMPLOYEE SECURITY (continued)

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)

(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, **the an** employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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

Legal Reference continued: (see next page)

EMPLOYEE SECURITY (continued)

Legal Reference: (continued)

PENAL CODE (continued)

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

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>

(3/11 5/18) 6/21