



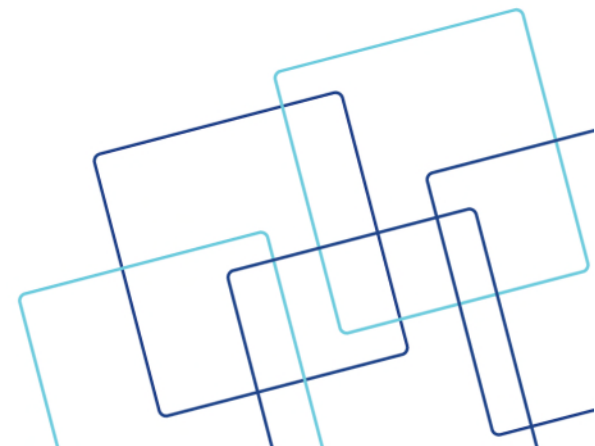
Lozano Smith
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BUSD Staff Training: Health, Safety, & Anti-Discrimination Policies

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Bishop Unified School District

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Roadmap

- Public Health Responsibilities
- Response to Public Health Emergencies
- Consent and Confidentiality
- Bullying, Harassment, and Retaliation

Public Health Responsibilities of School Districts - Sources



California Education Code

California Health and Safety Code

California Regulations

Board Policies and Administrative Regulations

Federal Law

Public Health Responsibilities of School Districts

Topic	Applicable Law & BP/AR
Prevention of the Spread of Communicable Diseases	Health and Safety Code §§ 120175.5, 120230 California Code of Regulations, title 5, § 202 BP/AR 5112.2 – Exclusions from Attendance 5141.22 – Infectious Diseases
Immunizations	Health and Safety Code § 120335 BP/AR 5141.31 – Immunizations
Health Screenings	Education Code §§ 49450-49458 BP/AR 5141.3 – Health Examinations AR 5142.32 – Health Screenings for School Entry

Public Health Responsibilities of School Districts

Topic	Applicable Law & BP/AR
Sexual Health Education	California Healthy Youth Act – Education Code §§ 51930-51939 BP/AR 6142.1 – Sexual Health and HIV/AIDS Prevention Instruction BP/AR 6142.8 – Comprehensive Health Education
Mental Health	Education Code § 51925 BP 5145.1 – Mental Health
Suicide Prevention	Education Code § 215 BP/AR – 5141.52 – Suicide Prevention

Public Health Responsibilities of School Districts

Topic	Applicable Law & BP/AR
Diabetes and Asthma Management	Education Code § 49452.6 Education Code § 49423.1 AR 5141.3 – Health Examinations AR 5141.21 – Administering Medication and Monitoring Health Conditions
Injury Prevention and Safety	Education Code § 51223.3 BP/AR 6142.8 – Comprehensive Health Education
Emergency Medical Responses: Allergies, Drugs, and Seizures	BP/AR 5141 – Health Care and Emergencies BP/AR 5141.21 – Administering Medication and Monitoring Health Conditions BP/AR 5141.27 – Food Allergies/Special Dietary Needs

Public Health Responsibilities of School Districts

Topic	Applicable Law & BP/AR
Toxins: Lead and Pesticides	Lead Safe Schools Protection Act – Education Code §§ 32240-32245 AR 0450 – Comprehensive Safety Plan AR 3514.1 – Hazardous Substances AR 3541.2 – Integrated Pest Management
Nutrition and Physical Activity	42 U.S.C. § 1758b BP 5030 – Student Wellness BP 6142.7 – Physical Education and Activity
Tobacco, Alcohol, and Drug Awareness	BP 3513.4 – Drug and Alcohol Free Schools BP/AR 5131.6 – Alcohol and Other Drugs BP/AR 5131.61 – Drug Testing BP/AR 5131.62 – Tobacco



Response to Public Health Emergencies



BP & AR 0450: Comprehensive Safety Plan



Safety plans may address the following:

- Positive school climate
- Prevention and intervention regarding drugs
- Mental health services
- District policies and plan related to pandemics
- Environmental safety strategies

BP & AR 0450: Comprehensive Safety Plan

- The school site council shall consult with local law enforcement, the local fire department, and other first responders in the writing and development of the comprehensive school safety plan.
- When practical, the school site council shall also consult with other school site councils and safety planning committees.

(Education Code 32281, 32282)

BP & AR 3516: Emergencies and Disaster Preparedness

District and/or school site plans shall address the following types of emergencies and disasters:

1. Fire on or off school grounds which endangers students and staff
2. Earthquake, flood, or other natural disasters
3. Environmental hazards, such as leakages or spills of hazardous materials
4. Attack or disturbance, or threat of attack or disturbance, by an individual or group
5. Bomb threat or actual detonation
6. Biological, radiological, chemical, and other activities, or heightened warning of such activities
7. Medical emergencies and quarantines, such as a pandemic influenza outbreak

BP & AR 3516: Emergencies and Disaster Preparedness

The Superintendent or designee shall ensure that the district's procedures include strategies and actions for prevention/mitigation, preparedness, response, and recovery, including, but not limited to, the following:

1. Inspection of school facilities
2. Instruction for staff and students regarding emergency plans
3. Determination of roles and responsibilities during emergencies
4. Personal safety and security
5. Closure of schools
6. Communication among staff, parents, Board, other agencies, and media during emergencies
7. Cooperation with state and local agencies
8. Steps to be taken after a disaster or emergency

BP 3516.5 – Emergency Schedules

To provide for the safety of students and staff, the Governing Board authorizes the Superintendent or designee to close a school site, change the regular school day schedule, or take any necessary action when hazardous environmental or weather conditions or other emergencies warrant.

[...]

For school closures due to emergency events occurring after September 1, 2021, the Superintendent or designee shall develop a plan for offering independent study within 10 days of school closure to any student impacted by the emergency condition. The plan shall also address the establishment, within a reasonable time, of independent study master agreements as specified in BP 6158 - Independent Study. The plan shall require reopening in person as soon as possible once allowable under the direction from the city or county health officer.



Consent and Confidentiality: Student Records



FERPA – Confidentiality and Right to Access Student Records

- Right to access records
 - Right to seek amendment of records
 - Right to provide consent to disclosure of personally identifiable information (PII) from records, unless an exception applies
- Rights transfer from parent to student at age 18 or when student attends a post-secondary institution

(20 U.S.C. § 1232g; 34 C.F.R. Part 99.)

FERPA vs. HIPAA

FERPA	HIPAA
<p>Applies to:</p> <ul style="list-style-type: none">• Educational agencies and institutions that receive funds under any program administered by the DOE	<p>Applies to:</p> <ul style="list-style-type: none">• Covered entities – i.e. health insurance agencies; and• Health care providers – physicians, dentists, therapists, etc.

When Records May Be Disclosed Without Parent Consent

- Directory information
- Disclosure to school officials with “legitimate educational interests”
- Disclosure to other schools
- Child welfare agency case workers
- Health and safety emergencies
- Court orders and subpoenas
- Lots of miscellaneous categories, such as disclosures for financial aid, audits, and studies

34 C.F.R. § 99.31; Ed. Code, § 49076.



Consent and Confidentiality: Student Rights



Education Code Section 49602

Any information of a personal nature disclosed by a pupil 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 49600 is confidential.



Education Code Section 49602 – Exceptions

- Discussion with other health care providers for the sole purpose of referring the pupil for treatment
- Reporting of child abuse or neglect
- Reporting information necessary to avert a **clear and present danger** to the health, safety, or welfare of the pupil or others
- Reporting information when the pupil indicates that a crime, **involving the likelihood of personal injury or significant or substantial property losses**, will be or has been committed
- Waiver by student
- Court order
- Discussion with school staff regarding student's academic program

Board Policy 6164.2 – Guidance/Counseling Services

A counselor shall consult with the Superintendent or designee and, as appropriate, with the district's legal counsel whenever unsure of how to respond to a student's personal problem or when questions arise regarding the possible release of confidential information regarding a student.



Case Law – Student Privacy and Confidentiality

- *Nguon v. Wolf* (2007): Students have a legally protected privacy interest under the California Constitution with respect to information about their sexual orientation.
- *Regino v. Staley et al.* (2023): Parents do not have a constitutionally protected right to be informed that their child has requested to use a different name and pronouns at school.

Hypothetical

During a counseling session, a student indicates that he smoked marijuana in the school parking lot after school yesterday. Can the counselor tell the student's parents?



Hypothetical

During a session with school counselor, a student indicates to the MFT that he has a gun in his backpack that he uses for hunting with his dad that he forgot to take out of his backpack before coming to school that day.

- Can the counselor tell the school principal?



Consent and Confidentiality: Consent to Mental Health Treatment



Board Policy 6164.2 – Guidance/Counseling Services

Written parent/guardian consent shall be obtained before mental health counseling or treatment services are provided to a student, except when the student is authorized to consent to the service pursuant to Family Code §§ 6920-6929, Health and Safety Code § 124260, or other applicable law.



Minor Consent to Mental Health Treatment

Health and Safety Code § 124260(b):

A minor who is 12 years of age or older may consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

Hypothetical

- Parents are divorced.
- Both hold educational rights, but dad has custody.
- Dad agrees to the child receiving school-based counseling from a mental health therapist but mom does not.

Can the District provide mental health services to the student?

Bullying, Harassment, and Retaliation

Effects of Bullying & Harassment on Targeted Students

- Poor school adjustment, sleep difficulties, anxiety, and depression
- Negative effect on interpersonal relationships, self-esteem, and school work
- Increased truancy rate
- Headaches and stomachaches
- Students facing peer victimization are more likely to have suicide ideation and to attempt suicide than students not facing victimization

Safe Place to Learn Act: A Duty to Protect Students

All school staff who witness bullying shall immediately intervene to stop the incident when it is safe to do so.

(Education Code § 234.1.)



AR 5145.3 – Nondiscrimination/Harassment

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint.



AR 5145.3 – Nondiscrimination/Harassment

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal or compliance officer, the principal or compliance officer shall notify the student or parent/guardian of the right to file a formal complaint in accordance with AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

AR 5145.3 – Nondiscrimination/Harassment

- Once notified verbally or in writing, the compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment.
- Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

District Liability:

A school district can be liable if:

- Harassment is so severe or pervasive that it effectively bars the student's access to an educational opportunity or benefit;
- School district had actual knowledge of the harassment; and
- School district acted with deliberate indifference.



Donovan v. Poway Unified Sch. Dist. (2008) 167 Cal.App.4th 567

In the *Donovan* case, two students claimed that they were harassed based on their sexual orientation. The Court ruled that there were adequate grounds for a jury to find that the school district and its officials had actual notice of the harassment and was deliberately indifferent to taking action to stop it. A \$300,000 damage award was upheld against the school district and personally against the school officials involved.



Questions?



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