NOTICE TO TEACHERS RE: STUDENT SUSPENSION/EXPULSION

This purpose of this regulation is to implement BP 5144.15 and to assist teachers in avoiding unnecessary risk or vulnerability in working effectively with students.

Definitions

Hazing is defined as any method of initiation or pre-initiation into a student organization or student body or any pastime or amusement engaged in with respect to these organizations which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to any student or other person attending any school. The term does not include customary athletic events or other similar contests or competitions.

Terroristic threat includes any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

Notification Requirements

The Monterey County Office of Education (MCOE) school site administrator or designee shall inform the teacher of any student who has engaged in, or is reasonably suspected to have engaged in, any of the following acts:

- Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense [Education Code (E.C.) 48900(a)];
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had previously obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence [E.C. 48900(b)];

- Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of any alcoholic beverage or intoxicant, or any controlled substance as defined in Health and Safety Code (HSC) § 11053-11058 [E.C. 48900(c)];
- Unlawfully offered, arranged, or negotiated to sell any alcoholic beverage or intoxicant, or any controlled substance as defined in HSC § 11053-11058, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material, and represented same as controlled substance, alcoholic beverage or intoxicant [E.C. 48900(d)];
- Committed or attempted to commit robbery or extortion [E.C. 48900(e)];
- Caused or attempted to cause damage to school property or private property [E.C. 48900(f)];
- Stole or attempted to steal school property or private property [E.C. 48900(g)];
- Committed an obscene act or engaged in habitual profanity or vulgarity [E.C. 48900(i)];
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in HSC 11014.5 [E.C. 48900(j)];
- Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties [E.C. 48900(k);
- Knowingly received stolen school property or private property [E.C. 48900(l)];
- Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm [E.C. 48900(m)];
- Committed or attempted to commit a sexual assault as defined in Penal Code (PC) §261, 266[c], 286, 288, 288[a] or 289, or committed a sexual battery as defined in PC 243.4 [E.C. 48900(n)];
- Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being at witness [E.C. 48900(o)];
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma [E.C. 48900(p)];
- Engaged in, or attempted to engage in, hazing as defined in E.C. 32050 [E.C. 48900(q)];
- Made terrorist threats against school officials and/or school property (EC 48900.7).
- Committed sexual harassment as defined in E.C. 212.5 [E.C. 48900.2];
- Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in E.C. 233[e] [E.C. 48900.3];
- Intentionally harassed, threatened, or intimidated a student, or a group of students, to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and/or invading

- student rights by creating an intimidating or hostile educational environment [E.C. 48900.4];
- Made terroristic threats against school officials or school property, or both [E.C. 48900.7].

MCOE shall provide this information to the teacher based upon any records that MCOE maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a student described in this section.

Timeliness of Information

Information provided to the teacher shall be from the previous three (3) school years [E.C. 49079(d)].

Confidentiality of Information

Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided, and shall not be shared with any other party by the teacher [E.C. 49079(e)].

Waiver of Liability

An MCOE school site administrator or designee is not civilly or criminally liable for providing the information described in this regulation unless it is proven that the information was false and that the MCOE administrator or designee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity [E.C. 49079(b)].

Failure to Provide Information

An MCOE school site administrator or designee who knowingly fails to provide information about a student who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in Section 3.0 of this regulation may be guilty of a misdemeanor [E.C. 49079(c)].

Legal Reference:

<u>EDUCATION CODE</u>
233(e)
32050
48900
48900.2
48900.3
48900.4

48900.7
49079

HEALTH AND SAFETY CODE
11053-11058

PENAL CODE
261
266(c)
286
288
288(a)
289