



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: Mandated Reporting of Certain Student Behavior

NUMBER: BUL-3927.2

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Office of Curriculum, Instruction and School Support

DATE: September 13, 2010

ROUTING
Local District
Superintendents
LD Directors of School
Services
Operations
Administrators
Principals
Assistant Principals
Deans
Academic Counselors
Transportation
All Employees

POLICY: This Bulletin defines those behaviors that must be reported to teachers pursuant to Education Code Section 49079 and Welfare and Institutions Code Section 827. It sets forth procedures on how to report, maintain, and disseminate confidential information and penalties for failure to report and breach of confidentiality.

MAJOR CHANGES: This Bulletin replaces BUL-3927.1 of the same title, dated March 3, 2008. The content has been revised to reflect the revision in Education Code 48900. It provides clarification involving the electronic and manual procedures for notifying student's mandated reportable acts, and for retaining and purging student information.

GUIDELINES: While the type of information presented under this Bulletin must be disseminated to teachers and counselors by legal mandate, the disseminated information must be kept confidential and used only for specific purposes. As such, the following guidelines apply and must be strictly followed in order for administrators, teachers, and counselors to avoid any potential personal liability:

I. LEGAL BACKGROUND

The law requires that certain student behavior must be reported to teachers pursuant to Education Code (E.C.) Section 49079 and Welfare and Institutions Code (W.I.C.) Section 827.

A. E.C. Section 49079 states as follows:

1. A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Sections 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged



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in, those acts (For clarification, see Section II.A.1).

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

2. A school district or school district officer or employee is not civilly or criminally liable for providing information under this section, unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity.
3. An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision (a) is guilty of a misdemeanor which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or both.
4. Since the 1996-97 school year and each school year thereafter, the information provided must be from the previous three school years.
5. 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 further disseminated by the teacher.

B. W.I.C. Section 827

W.I.C. Section 827 mandates that the Juvenile Court submit written notice to the superintendent of the district of attendance whenever a minor, who is enrolled in any of grades K through 12, has been found by the court to have committed any of certain specified offenses. These offenses include any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, larceny, vandalism, or graffiti; and a sex offense as listed in Section 290 of the Penal Code: assault or battery.

II. MANDATED REPORTABLE ACTS

A. Compliance

1. For compliance with E.C. Section 49079, mandated reportable acts are those that would also have been a reason for suspension or expulsion. These acts are set forth in E.C. Sections 48900, 48900.2 (sexual



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harassment), 48900.3 (hate violence), 48900.4 (threats, intimidation against district personnel and pupils), and 48900.7 (terroristic threats). See Attachment A for a detailed list of the E.C. Section 48900 *et seq.* offenses. Please note that E.C. Section 48900(h) involving the use of tobacco is not a mandated reportable act.

2. For compliance with W.I.C. Section 827, mandated reportable acts are those contained in Juvenile Court Notices, see Attachment B which is a sample Juvenile Court Notice and is entitled, "W.I.C. Section 827(b)(2)/EC Section 48267 Notification" (hereinafter referred to as a "W.I.C. Notice").

B. Definitions

1. "Teacher," for the purpose of this bulletin, is defined as someone who has significant involvement with the student in a classroom setting. This would include a child's regular classroom teacher or a substitute teacher. This would not include a teacher who only has contact with a student while on the schoolyard or while the teacher is on supervision.
2. "Reasonably suspected to have engaged in mandated reportable acts," for the purposes of this bulletin, are those acts that resulted in a suspension, or resulted in notification from school police or a court of law, or those acts specified in E.C. Section 48900 *et seq.* offenses on which the school site took some formal action.
3. "Yellow Folders" are discipline files that the principal must establish for every student at his or her school for whom the District has a record indicating that the student engaged in, or was reasonably suspected to have engaged in, any of the mandated reportable acts. The "Yellow Folder" contains hardcopy information of the student's E.C. 49079 records and W.I.C. Notices. It is not part of the student's cumulative records and must be maintained at the student's school of attendance. The "Yellow Folder" does not have to be made of a yellow colored file folder, but may be depicted as the "Yellow Folder" by any means acceptable to each school site (e.g., contains a yellow label, contains a yellow highlighted label, or has "Yellow Folder" written on the folder).

C. Legal Penalties for Employees' Failure to Disclose or Keep Confidentiality

1. Pursuant to E.C. Section 49079, an employee is guilty of a misdemeanor if the employee knowingly fails to provide the mandated reportable act information regarding a pupil.
2. Pursuant to W.I.C. Section 827, an employee is guilty of a



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misdemeanor for any intentional violation of confidentiality provisions. Except for a violation of confidentiality, no other liability shall attach to any person who transmits or fails to transmit any notice or information required under this law. Any information received under this law shall be received in confidence for the limited purpose of rehabilitating the student and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the student, his or her parents or guardians, law enforcement personnel, or the juvenile's probation officer, as necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

D. Retention and Purging of Information

1. For compliance with E.C. Section 49079, any hardcopy information referring to E.C. Section 48900 *et seq.* offenses shall be maintained by the school site in a confidential "Yellow Folder," which will be made available to each student's teacher(s) during the three-year period subsequent to the behavior. Electronic notification is also available. Such hardcopy information must be removed from the "Yellow Folder" at the expiration of the three-year time frame.
2. For compliance with W.I.C. Section 827, any hardcopy information received from the court regarding W.I.C. Notices shall also be kept in the confidential "Yellow Folder" at the school of attendance and shall be transferred to the student's subsequent school(s) of attendance. These records are to be maintained until the student graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18 years, whichever occurs first. After that time, all hardcopy information must be purged. At any time after the date by which a record required to be destroyed should have been destroyed, the student or his or her parent or guardian has the right to make a written request to the principal of the school, that the student's school records be reviewed to ensure that the record has been destroyed.

Upon completion of any requested review and no later than 30 days after the request for the review is received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred. The principal must also contact the student's court liaison to ensure they have also purged the W.I.C. records. See the ASSISTANCE portion of this Bulletin.



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E. Dissemination of Information

1. E.C. Section 48900 *et seq.*

The information referring to E.C. Section 48900 *et seq.* offenses shall be received in confidence for the limited purpose for which it was provided, i.e., the teacher's right to self-protection and his or her responsibility to protect others. The information shall not be further disseminated by the teacher.

2. W.I.C. Section 827

- a. The information furnished by the Juvenile Court is expeditiously transmitted to the principal at the school of attendance. The principal must expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the student, and to any teacher or administrator directly supervising or reporting on the behavior or progress of the student whom the principal believes needs the information to work with the student in an appropriate fashion. The purpose of the dissemination of information is to avoid and protect others from needless vulnerability.
- b. If the student is removed from public school as a result of the court's finding, the superintendent or his or her designee should maintain the information in a confidential "Yellow Folder" and should defer transmittal of the information until the student is returned to public school. If the student is returned to a different district, the parole or probation officer having jurisdiction over the student shall notify the superintendent of the last district of attendance. The superintendent of the last district of attendance is responsible for transmitting the notice received from the court to the superintendent of the new district of attendance.

III. PROCEDURES FOR NOTIFYING STUDENT'S MANDATED REPORTABLE ACTS

A. Mandated Notification

1. If a student has an existing "Yellow Folder," that folder must be updated any time a District employee learns, or reasonably suspects, that the student engaged in an additional reportable act. The "Yellow Folder" contains hardcopy records of the student's E.C. Section 48900 *et seq.* violations and W.I.C. Notices that the school received. Should a



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school receive a W.I.C. Notice directly from anyone other than the District, the principal/designee should keep a copy in the “Yellow Folder,” and forward the original to the Pupil Services and Attendance Office.

2. Although the principal is mandated to make certain required notifications, the principal maintains discretion in determining how to share the information with teachers. Once notified that a “Yellow Folder” exists for a student, the teacher may review the details of those acts within the student’s “Yellow Folder.”
3. The teacher is also notified that reportable behavior may exist for a student via computerized student information access. When viewing the attendance roster through ISIS, any student with some type of reportable behavior has an asterisk in front of his or her name. The teacher can click on the asterisk to access the Student Information Screen. Under “Special Concerns” on the Student Information Screen, any student with mandated reportable behavior is depicted with the notation, “Discipline: Yes,” for any E.C. Section 48900 *et seq.* violations. W.I.C. Notices are not available electronically. Therefore, principals who have hardcopies of these W.I.C. Notices must notify the applicable teachers, administrators, and counselors of the existence of such notices.

B. Notification Procedure for Transfers

The transfer of a “Yellow Folder” must occur within five calendar days of the receipt of request for the contents of the “Yellow Folder.”

1. When a student transfers between LAUSD schools, the receiving principal/designee shall request the student’s “Yellow Folder” from the sending school.
2. If the student is transferring to a school outside of the District, the sending principal/designee shall send a copy of the contents of the “Yellow Folder” to the receiving school.
3. If the student is transferring into LAUSD from outside of the District, the receiving principal/designee shall request copies of the student’s E.C. Section 48900 *et seq.* violations and W.I.C. Notices.
4. If the student is transferring to or concurrently enrolled in an adult program, the principal/designee must also make a copy of the contents



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of the “Yellow Folder” notices, and transmit them to the receiving school.

AUTHORITY: This is a policy of the Los Angeles Unified School District. The following legal standards are applied in this policy: E.C. Sections 35160, 48900, 48900.2, 48900.3, 48900.4, 48900.7, 49061, 49079, and W.I.C. Section 827.

RELATED RESOURCES:

- BUL-1077.1, *Information Protection Policy*, dated December 5, 2006
- BUL-2047.0 *Responding to and Reporting Hate-Motivated Incidents and Crimes*, dated October 10, 2005
- BUL-2433.0 *Challenging the Content of a Pupil’s Record*, dated April 3, 2006
- BUL-2469, *Pupil Records: Access, Confidentiality, and Notice of Educational Rights*, dated April 24, 2006
- BUL-3819, *Suspension of Students - Guidelines*, dated August 21, 2007
- BUL-4478.0, *Opportunity Transfers*, dated December 15, 2008
- BUL-4655.0, *Expulsion of Students - Policy and Procedures*, dated March 13, 2009

ASSISTANCE: For assistance or further information please contact:

Office of Pupil Services (213) 241-3844
Student Discipline and Expulsion Support Unit (213) 765-2855
Office of the General Counsel, at (213) 241-7600
Pupil Services and Attendance (PSA) Coordinator
Local District Operations Coordinator
Local District Support Unit, Special Education Administrator.

For pupil record and other legal questions, please contact the Office of General Counsel, Education Law Team, at (213) 241-7600.

For SIS or ISIS questions, please contact the ITD Service Desk, at (213) 241-5200.

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Student Health and Human Services

Attachment A

Annotated Excerpts from the California Education Code (2009)

§ 48900. Grounds for Suspension or Expulsion

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stolen or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products **(This is not a mandated reportable act)**.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, "imitation firearm" means 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.

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Attachment A

- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.
- (r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.
- (s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:
 - (1) While on school grounds.
 - (2) While going to or coming from school.
 - (3) During the lunch period whether on or off the campus.
 - (4) During, or while going to or coming from, a school sponsored activity.
- (t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).
- (u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.
- (v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.
- (w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

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Attachment A

§ 48900.2. Additional grounds for suspension or expulsion; sexual harassment

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

§ 48900.3. Hate violence

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

§ 48900.4. Additional grounds for suspension or expulsion; harassment, threats, or intimidation

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

§ 48900.7. Additional grounds for suspension or expulsion; terroristic threats against school officials, school property, or both

- (a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.
- (b) For the purposes of this section, "terroristic threat" shall include 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 (\$1,000), 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.

Attachment B

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