



# Flornoy Union Elementary School District

PO Box 2260; 15850 Paskenta Rd. Flornoy, CA 96029

[www.flornoyelementary.org](http://www.flornoyelementary.org) 530-833-5331; 530-833-5332 fax

## BOARD MEETING AGENDA

**Tuesday, February 8, 2022 at 6:15 pm**

**MISSION STATEMENT:** The Mission of Flornoy Elementary School is to provide academic excellence, responsible citizens, and a lifelong desire for learning in a safe environment.

DATE: Tuesday, February 8, 2022 at 6:15 pm

TYPE: Regular Board Meeting

LOCATION: Via web conference.

To participate in the live meeting click on the link below.

### Join Zoom Meeting

<https://us04web.zoom.us/j/76189952111?pwd=Vmc0UmpONTd4RVVGSlQ3ZuSUlsUT09>

Meeting ID: 761 8995 2111 BPasscode: 5D9f62

PUBLIC HEARING NOTICE POSTED: NONE

BOARD MEETING AGENDA POSTED: 01/04/2022 Flornoy School, Flornoy Store and Paskenta Store

### 1. PUBLIC MEETING CALL TO ORDER BY PRESIDING OFFICER \_\_\_\_\_, at \_\_\_\_\_ p.m.

#### Roll call

Patrick Archer	_____
Cathy Bjornestad-Tobin	_____
Tyson Carter	_____
Sara Valoroso	_____
Mike Sanderson	_____

### PUBLIC COMMENT PERTAINING TO AGENDA

Comments on Closed Session Agenda Items, (below). Any person wishing to speak to any item on the Closed Session Agenda will be granted three minutes to make a presentation.

Comments from the Floor: At this time, any person wishing to speak to any item not on the Agenda will be granted three minutes to make a presentation. No action may be taken at this meeting on items addressed during these comments.

Comments on Agenda Items: At this time, any person wishing to speak to any item on the Agenda will be granted three minutes to make a presentation.

### 2. PLEDGE OF ALLEGIANCE

#### Recognize staff present:

Rachel Davis, Superintendent	_____
Melinda Flornoy, Business Manager	_____
Amanda Taylor, Teacher	_____
Cody Weston, Custodian	_____
Mei Vance, Instructional Aide	_____
Sandra Palafox, Instructional Aide	_____
Maria Herrera	_____
Deborah Hammons	_____

3. **ADOPTION OF AGENDA**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Ayes/Noes /Abstain

4. **APPROVAL OF MINUTES FROM THE MEETINGS OF: Thursday, January 11, 2022**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Ayes/Noes /Abstain

5. **COMMENTS**

1. From members of the Board of Education
2. From the Superintendent and Business Manager
3. From the Staff/Teachers

6. **GENERAL FUNCTION CONSENT ITEMS**

1. Bills and warrants for: **January 2022**
2. MOUs/Agreements: **NONE**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Ayes/Noes /Abstain

7. **PUBLIC HEARING: NONE**8. **DISCUSSION/ACTION ITEMS (Attachments)**

1. Discuss and consider approval of the Supplement to the Annual Update for 2021-22 LCAP.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Aye/Noes /Abstain

2. Consider approval of updated J13A Form

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Aye/Noes /Abstain

3. Consider acceptance of the 2020-21 Financial Audit for FUESD

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Aye/Noes /Abstain

4. Discuss and approve the following updated board policies:

1. BP/AR/E 1330 Use of School Facilities
2. BP/AR3513.3 Tobacco-Free Schools
3. BP/AR 5131.62 Tobacco

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Motion/Second Aye/Noes /Abstain

9. **DISCUSSION ON NEXT BOARD MEETING**

1. Next meeting date: Tuesday, March 22, 2022
2. Possible items for action/discussion
  - Estimates and Quotes for resurfacing the black top
  - Estimates and Quotes for a Mobile Modular Classroom/Gym/Cafeteria

9. **FURTHER COMMENTS**

1. From members of the Board of Education
2. From the Superintendent \_\_\_\_\_ Adjournment at \_\_\_\_\_ p.m.

4.



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## BOARD MEETING MINUTES

Tuesday, January 11, 2022 at 6:15 pm

**MISSION STATEMENT:** The Mission of Flournoy Elementary School is to provide academic excellence, responsible citizens, and a lifelong desire for learning in a safe environment.

DATE: Tuesday, January 11, 2022 at 6:15 pm  
 TYPE: Regular Board Meeting  
 LOCATION: Via web conference.

To participate in the live meeting click on the link below.

### Join Zoom Meeting

<https://us04web.zoom.us/j/76189952111?pwd=Vmc0UmpONTd4RVVGSlQ3ZuSUlsUT09>

Meeting ID: 761 8995 2111 BPasscode: 5D9f62

PUBLIC HEARING NOTICE POSTED: NONE  
 BOARD MEETING AGENDA POSTED: 01/7/2022 Flournoy School, Flournoy Store and Paskenta Store

### 1. PUBLIC MEETING CALL TO ORDER BY PRESIDING OFFICER \_\_\_\_SV\_\_\_\_, at 6:20 p.m.

#### Roll call

Patrick Archer	_____
Cathy Bjornestad-Tobin	<u>  X  </u>
Tyson Carter	<u>  X  </u> via zoom
Sara Valoroso	<u>  X  </u>
Mike Sanderson	<u>  X  </u>

### PUBLIC COMMENT PERTAINING TO AGENDA

Comments on Closed Session Agenda Items, (below). Any person wishing to speak to any item on the Closed Session Agenda will be granted three minutes to make a presentation.

Comments from the Floor: At this time, any person wishing to speak to any item not on the Agenda will be granted three minutes to make a presentation. No action may be taken at this meeting on items addressed during these comments.

Comments on Agenda Items: At this time, any person wishing to speak to any item on the Agenda will be granted three minutes to make a presentation.

### 2. PLEDGE OF ALLEGIANCE

#### Recognize staff present:

Rachel Davis, Superintendent	<u>  X  </u>
Melinda Flournoy, Business Manager	<u>  X  </u>
Amanda Taylor, Teacher	_____
Cody Weston, Custodian	_____
Mei Vance, Instructional Aide	_____
Sandra Palafox, Instructional Aide	_____
Maria Herrera	_____
Deborah Hammons	_____

3. **ADOPTION OF AGENDA**

CT / MS 4 / 0 / 0  
Motion/Second Ayes/Noes / Abstain

4. **APPROVAL OF MINUTES FROM THE MEETINGS OF: Thursday, December 16, 2021**

CT / MS 4 / 0 / 0  
Motion/Second Ayes/Noes / Abstain

5. **COMMENTS**

1. From members of the Board of Education M. Sanderson talked about the overlay quote for the blacktop. He has someone come take a look and will try to get a quote.
2. From the Superintendent and Business Manager R. Davis talked about the county COVID rates and the end of our basketball season.
3. From the Staff/Teachers **NONE**

6. **GENERAL FUNCTION CONSENT ITEMS**

1. Bills and warrants for: **December 2021**
2. MOUs/Agreements: **NONE**

CT / MS 4 / 0 / 0  
Motion/Second Ayes/Noes / Abstain

7. **PUBLIC HEARING:** **NONE**8. **DISCUSSION/ACTION ITEMS** (Attachments)

1. Consider approval of the Quarterly Report on Williams Uniform Complaints  
CT / MS 4 / 0 / 0  
Motion/Second Ave/Noes / Abstain
2. Discuss and approve the 2020-21 School Accountability Report Card (SARC) published in the 2021-22 school year.  
MS / CT 4 / 0 / 0  
Motion/Second Ave/Noes / Abstain
3. Consider acceptance of the 2020-21 Financial Audit for FUESD  
CT / MS 4 / 0 / 0  
Motion/Second Ave/Noes / Abstain
4. Discuss and consider approval of the 2021-22 Comprehensive School Safety Plan  
CT / MS 4 / 0 / 0  
Motion/Second Ave/Noes / Abstain
5. Establishment 2022 Schedule of Regular Meetings of the Board of Trustees  
MS / CT 4 / 0 / 0  
Motion/Second Ave/Noes / Abstain

9. **DISCUSSION ON NEXT BOARD MEETING**

1. Next meeting date: Tuesday, February 8 at 6:16 pm.
2. Possible items for action/discussion
  - Supplement to the Annual Update 2021-22 LCAP by 02/28/22
  - Estimates and Quotes for resurfacing the black top
  - Estimates and Quotes for a Mobile Modular Classroom/Gym/Cafeteria

9. **FURTHER COMMENTS** **NONE**

1. From members of the Board of Education
2. From the Superintendent, R. Davis Adjournment at 6:52 p.m.

## Checks Dated 01/01/2022 through 01/31/2022

Check Number	Check Date	Pay to the Order of	FD-OBJT	Comment	Expensed Amount	Check Amount
40225285	01/05/2022	Amanda Taylor	01-4300	Class Project Supplies		128.98
40225286	01/05/2022	Paskenta Community Services District	01-5502	Novemver & December Water Bill		128.00
40225287	01/05/2022	AT&T/Calnet	01-5901	Phone		163.68
40225288	01/05/2022	Pace Analytical Services, LLC	01-5502	Drinking Water Monitoring		88.40
40225289	01/05/2022	California Safety Company	01-5507	Monthly Central Station Monitoring		150.75
40225290	01/05/2022	Christy White Associates	01-5802	Elkins 2019-20 District Audit		607.50
40225291	01/05/2022	Coastal Business Systems Inc.	01-5600	Copier Lease		454.66
40225292	01/05/2022	CSM Consulting	01-5800	E-rate of period Oct, Nov & Dec 2021		350.00
40225293	01/05/2022	Green Waste	01-5506	Elkins Garbage	359.58	
				Garbage	503.56	
40225294	01/05/2022	McCoy's Hardware & Farm Supply	01-4300	Flex Seal for Fire Tank		863.14
40225295	01/05/2022	Pacific Gas & Electric Co	01-5503	Electric Bill	742.90	
				Elkins Electric Bill	119.66	
40225296	01/05/2022	TCSIG	76-9513	Insurance Premiums	3,362.00	
			76-9522	Insurance Premiums	842.00	
			76-9552	Insurance Premiums	265.00	
			76-9553	Insurance Premiums	85.00	
40225297	01/05/2022	US Bank	01-4300	Various	541.52	4,554.00
			13-4300	Various	762.96	
			13-4700	Various	289.75	
40225298	01/05/2022	Wilgus Fire Control, Inc.	01-5600	Kitchen Hood Service		1,594.23
40225299	01/05/2022	Woods Pest Control	01-5505	Elkins General Pest	95.00	314.53
				General Pest Control	180.00	
40226432	01/26/2022	Maria Herrera	13-4700	Reimbursement for Cafe Food		275.00
40226433	01/26/2022	Pace Analytical Services, LLC	01-5502	Drinking Water Monitoring		24.21
40226434	01/26/2022	Calif. Dept. of Ed Cde Press	13-4700	Commodities		88.40
40226435	01/26/2022	California Safety Company	01-5507	Monthly Central Station Monitoring		128.25
40226436	01/26/2022	Coastal Business Systems Inc.	01-5600	Copier Lease		100.00
40226437	01/26/2022	J.M. Distributing Dairy Prod.	13-4700	Milk for Lunches		899.03
40226438	01/26/2022	McCoy's Hardware & Farm Supply	01-4300	Flag Pole Repairs	3,362.00	425.55
40226439	01/26/2022	Pacific Gas & Electric Co	01-5503	Elkins Electric Bill		27.75
40226440	01/26/2022	TCSIG	76-9513	Health Insurance Premiums		123.76
			76-9522	Health Insurance Premiums		
			76-9552	Health Insurance Premiums		
			76-9553	Health Insurance Premiums		
40226441	01/26/2022	Triple R Gas	01-5504	Propane	85.00	4,554.00
Total Number of Checks					25	18,872.70

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

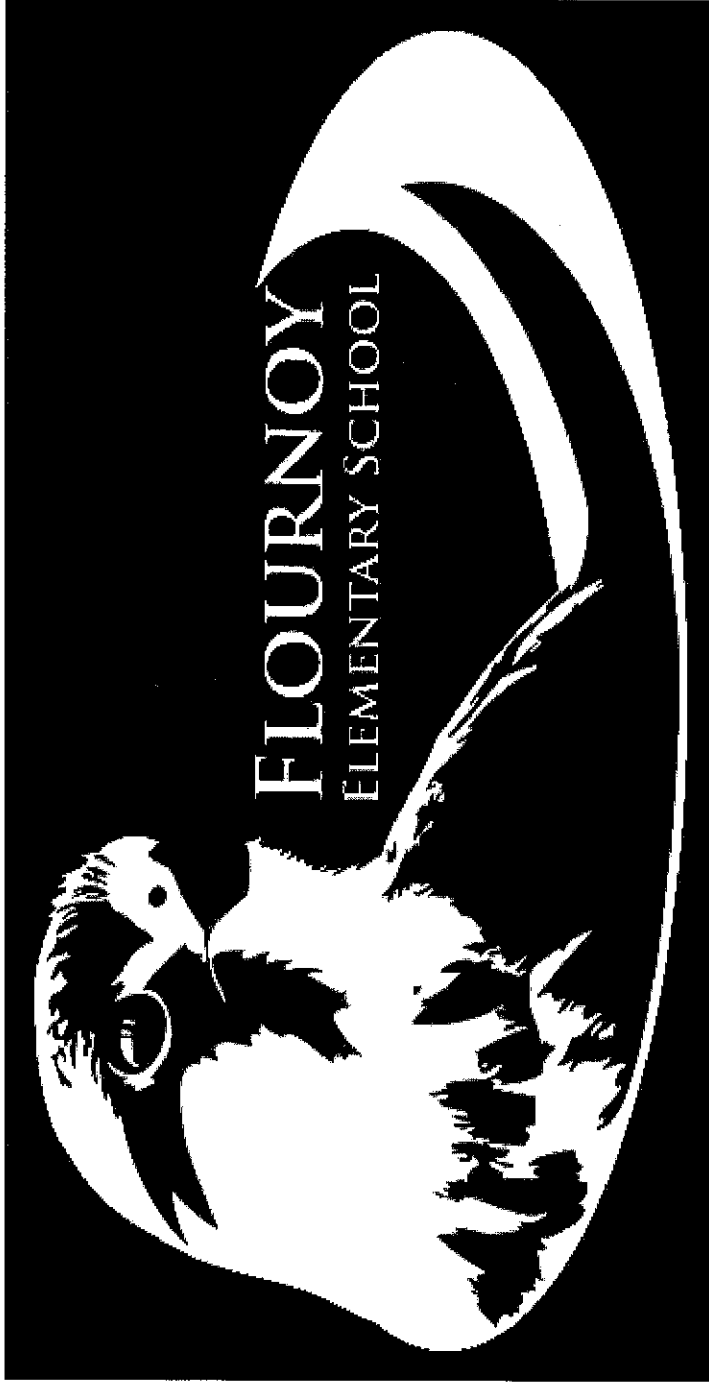
## Checks Dated 01/01/2022 through 01/31/2022

Check Number	Check Date	Pay to the Order of	FD-OBJT	Comment	Expensed Amount	Check Amount
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## Fund Recap

Fund	Description	Check Count	Expensed Amount
01	GENERAL	20	8,133.98
13	CAFETERIA SPEC REV	4	1,630.72
76	WARRANT/PASS-THRU	2	9,108.00
	Total Number of Checks	25	18,872.70
	Less Unpaid Tax Liability		.00
	Net (Check Amount)		18,872.70

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.



## Supplement to the Annual Update to the 2021–22 Local Control and Accountability Plan

Local Educational Agency (LEA) Name	Contact Name and Title	Email and Phone
Flournoy Union Elementary School District	Rachel Davis Superintendent/Teacher	rdavis@flournoyschool.org 530-833-5331

California's 2021–22 Budget Act, the federal American Rescue Plan Act of 2021, and other state and federal relief acts have provided local educational agencies (LEAs) with a significant increase in funding to support students, teachers, staff, and their communities in recovering from the COVID-19 pandemic and to address the impacts of distance learning on students. The following is a one-time mid-year report to the local governing board or body and educational partners related to engagement on, and implementation of, these Acts.

A description of how and when the LEA engaged, or plans to engage, its educational partners on the use of funds provided through the Budget Act of 2021 that were not included in the 2021-22 Local Control and Accountability Plan (LCAP).

Flournoy Elementary School District has a long-established foundational principle of meaningful educational partner engagement. These efforts were refined and improved through the Local Control and Accountability Plan (LCAP) development process.

Flournoy Elementary School District will continue to engage community partners regarding the additional Cost-Of-Living-Adjustment (COLA) and 15% increase to concentration funds during the LCAP community partners engagement opportunities in the first half of 2022.

Previous engagement opportunities include: Local Control and Accountability Plan 2021-2022 <http://www.flournoysschool.org> (p. 4-5)  
Upcoming engagement opportunities for these funds include: to purchase new standards-based curriculum in the following subject areas; English language arts, history-social science and mathematics  
Upcoming engagement opportunities to receive input on purchasing a new standards-based curriculum include parent meetings to review and receive input on available curriculum as well as parent and School Board input on proposed adoptions.

A description of how the LEA used, or plans to use, the additional concentration grant add-on funding it received to increase the number of staff who provide direct services to students on school campuses with an enrollment of students who are low-income, English learners, and/or foster youth that is greater than 55 percent.

Flournoy Elementary School does not receive enough additional concentration grant funding to hire additional staff, but instead we use it to retain staff that provide direct service to students at Flournoy School by: providing additional training. For example, additional training within the areas of small-group instruction, conducting Easy CBMs, and Read Live.

A description of how and when the LEA engaged its educational partners on the use of one-time federal funds received that are intended to support recovery from the COVID-19 pandemic and the impacts of distance learning on pupils.

Flournoy Elementary School District has a long-established foundational principle of meaningful educational partner engagement. These efforts were refined and improved through the Local Control and Accountability Plan (LCAP) development process. The district's practices have been further enhanced during the pandemic as Flournoy Elementary District sought the input and feedback of its educational partner groups from the onset of the pandemic and continuing through the development of the Learning Continuity and Attendance Plan, the 2021-2022 LCAP and Expanded Learning Opportunities Grant. All plans can be viewed at the following link  
<http://www.flournoysschool.org/>

See pages:  
Learning Continuity Plan (Pages 2-4)  
21/22 LCAP (pages 5-7)

A description of how the LEA is implementing the federal American Rescue Plan Act and federal Elementary and Secondary School Emergency Relief expenditure plan, and the successes and challenges experienced during implementation.

Our district is not Eligible for ESSER III because we do not receive Title 1, Part A funds.

A description of how the LEA is using its fiscal resources received for the 2021-22 school year in a manner that is consistent with the applicable plans and is aligned with the LEA's 2021-22 LCAP and Annual Update.



The 2021-22 school year has been a year of many plans, and our district has worked diligently to ensure that all plans are aligned and all funds can be maximized to support student outcomes. As noted throughout this document, our district has received one-time state and federal funds that are geared toward keeping our schools safely open while preventing the spread of COVID-19 and accelerating student learning recovery after a year spent in distance learning.

To that end, we have worked to align our fiscal resources to our 2021-22 LCAP [[link to LCAP](#)] in the following plans in these ways:

Safe Return to In-Person Instruction and Continuity of Services Plan [[include link to plan](#)] Through this plan our LCAP goals were enhanced by our custodial and support staff utilizing corrective measures to keep our staff and students healthy, purchasing PPE that allowed students to be in-person, and providing additional instructional materials that limited the need for students to share resources.

Learning Continuity Plan [[include link to plan](#)]: Through this plan we have enhanced the learning opportunities described in our LCAP for each of the core curriculum areas and further addressed the social-emotional learning of our students. Additional technology devices were added to provide in-person and distance learning access to rigorous curriculum and instruction. Small group instruction was enhanced through enhancing our staff's skills in small group instruction and through the purchase of TeacherEase, which allowed us to track the progress of students more effectively.

# Instructions for the Supplement to the Annual Update for the 2021–22 Local Control and Accountability Plan Year

*For additional questions or technical assistance related to the completion of the Supplement to the Annual Update to the 2021–22 Local Control and Accountability Plan (LCAP), please contact the local county office of education (COE), or the California Department of Education's (CDE's) Local Agency Systems Support Office, by phone at 916-319-0809 or by email at [lcff@cde.ca.gov](mailto:lcff@cde.ca.gov).*

## Introduction

California's 2021–22 Budget Act, the federal American Rescue Plan Act of 2021, and other state and federal relief acts have provided local educational agencies (LEAs) with a significant increase in funding to support students, teachers, staff, and their communities in recovering from the COVID-19 pandemic and to address the impacts of distance learning on students. Section 124(e) of Assembly Bill 130 requires LEAs to present an update on the Annual Update to the 2021–22 LCAP and Budget Overview for Parents on or before February 28, 2022, at a regularly scheduled meeting of the governing board or body of the LEA. At this meeting, the LEA must include all of the following:

- The Supplement to the Annual Update for the 2021–22 LCAP (2021–22 Supplement);
- All available mid-year outcome data related to metrics identified in the 2021–22 LCAP; and
- Mid-year expenditure and implementation data on all actions identified in the 2021–22 LCAP.

When reporting available mid-year outcome, expenditure, and implementation data, LEAs have flexibility to provide this information as best suits the local context, provided that it is succinct and contains a level of detail that is meaningful and accessible for the LEA's educational partners.

The 2021–22 Supplement is considered part of the 2022–23 LCAP for the purposes of adoption, review, and approval, and must be included with the LCAP as follows:

- The 2022–23 Budget Overview for Parents
- The 2021–22 Supplement
- The 2022–23 LCAP
- The Action Tables for the 2022–23 LCAP
- The Instructions for the LCAP Template

As such, the 2021–22 Supplement will be submitted for review and approval as part of the LEA's 2022–23 LCAP.

## Instructions

Respond to the following prompts, as required. In responding to these prompts, LEAs must, to the greatest extent practicable, provide succinct responses that contain a level of detail that will be meaningful and accessible for the LEA's educational partners and the broader public and must, to the greatest extent practicable, use language that is understandable and accessible to parents.

In responding to these prompts, the LEA has flexibility to reference information provided in other planning documents. An LEA that chooses to

reference information provided in other planning documents must identify the plan(s) being referenced, where the plan(s) are located (such as a link to a web page), and where in the plan the information being referenced may be found.

**Prompt 1:** “A description of how and when the LEA engaged, or plans to engage, its educational partners on the use of funds provided through the Budget Act of 2021 that were not included in the 2020–21 Local Control and Accountability Plan (LCAP).”

In general, LEAs have flexibility in deciding what funds are included in the LCAP and to what extent those funds are included. If the LEA received funding through the Budget Act of 2021 that it would have typically included within its LCAP, identify the funds provided in the Budget Act of 2021 that were not included in the LCAP and provide a description of how the LEA has engaged its educational partners on the use of funds. If an LEA included the applicable funds in its adopted 2021–22 LCAP, provide this explanation.

**Prompt 2:** “A description of how LEA used, or plans to use, the concentration grant add-on funding it received to increase the number of staff who provide direct services to students on school campuses with an enrollment of students who are low-income, English learners, and/or foster youth that is greater than 55 percent.”

If LEA does not receive a concentration grant or the concentration grant add-on, provide this explanation.

Describe how the LEA is using, or plans to use, the concentration grant add-on funds received consistent with California Education Code Section 42238.02, as amended, to increase the number of certificated staff, classified staff, or both, including custodial staff, who provide direct services to students on school campuses with greater than 55 percent unduplicated pupil enrollment, as compared to schools with an enrollment of unduplicated students that is equal to or less than 55 percent.

In the event that the additional concentration grant add-on is not sufficient to increase the number of staff providing direct services to students at a school with an enrollment of unduplicated students that is greater than 55 percent, describe how the LEA is using the funds to retain staff providing direct services to students at a school with an enrollment of unduplicated students that is greater than 55 percent.

**Prompt 3:** “A description of how and when the LEA engaged its educational partners on the use of one-time federal funds received that are intended to support recovery from the COVID-19 pandemic and the impacts of distance learning on pupils.”

If the LEA did not receive one-time federal funding to support recovery from the COVID-19 pandemic and the impacts of distance learning on students, provide this explanation.

Describe how and when the LEA engaged its educational partners on the use of one-time federal funds it received that are intended to support recovery from the COVID-19 pandemic and the impacts of distance learning on students. See the COVID-19 Relief Funding Summary Sheet web page (<https://www.cde.ca.gov/fg/cr/reliefunds.asp>) for a listing of COVID-19 relief funding and the Federal Stimulus Funding web page (<https://www.cde.ca.gov/fg/cr/>) for additional information on these funds. The LEA is not required to describe engagement that has taken place related to state funds.

**Prompt 4:** “A description of how the LEA is implementing the federal American Rescue Plan Act and federal Elementary and Secondary School Emergency Relief expenditure plan, and the successes and challenges experienced during implementation.”

If an LEA does not receive ESSER III funding, provide this explanation.

Describe the LEA's implementation of its efforts to maintain the health and safety of students, educators, and other staff and ensure the continuity of services, as required by the federal American Rescue Plan Act of 2021, and its implementation of the federal Elementary and Secondary School Emergency Relief (ESSER) expenditure plan to date, including successes and challenges.

**Prompt 5:** "A description of how the LEA is using its fiscal resources received for the 2021–22 school year in a manner that is consistent with the applicable plans and is aligned with the LEA's 2021–22 LCAP and Annual Update."

Summarize how the LEA is using its fiscal resources received for the 2021–22 school year to implement the requirements of applicable plans in a manner that is aligned with the LEA's 2021–22 LCAP. For purposes of responding to this prompt, "applicable plans" include the Safe Return to In-Person Instruction and Continuity of Services Plan and the ESSER III Expenditure Plan.

California Department of Education  
November 2021



CALIFORNIA DEPARTMENT OF EDUCATION  
REQUEST FOR ALLOWANCE OF ATTENDANCE DUE TO EMERGENCY CONDITIONS  
FORM J-13A, REVISED DECEMBER 2017

SECTION E: AFFIDAVIT

PART I: AFFIDAVIT OF SCHOOL DISTRICT, COUNTY OFFICE OF EDUCATION, OR CHARTER SCHOOL GOVERNING BOARD MEMBERS – All applicable sections below must be completed to process this J-13A request.

We, members constituting a majority of the governing board of \_\_\_\_\_, hereby swear (or affirm) that the foregoing statements are true and are based on official records.

Board Members Names

Board Members Signatures

Sara Valorosa

Tyson Freund-Carter

Cathy Bjornestad-Tobin

Patrick Archer

Phillip (Mike) Sanderson

At least a majority of the members of the governing board shall execute this affidavit.

Subscribed and sworn (or affirmed) before me, this 9th day of November 2021

Witness: Melinda Flournoy (Name) \_\_\_\_\_ Title: Business Manager of Tehama County, California

PART II: APPROVAL BY SUPERINTENDENT OF CHARTER SCHOOL AUTHORIZER (Only applicable to charter school requests)

Superintendent (or designee): Rachel Davis, Superintendent (Name) \_\_\_\_\_ Authorizing LEA Name: \_\_\_\_\_ (Signature)

PART III: AFFIDAVIT OF COUNTY SUPERINTENDENT OF SCHOOLS

The information and statements contained in the foregoing request are true and correct to the best of my knowledge and belief.

County Superintendent of Schools (or designee): Richard DuVarney (Name) \_\_\_\_\_ (Signature)

Subscribed and sworn (or affirmed) before me, this \_\_\_\_\_ day of \_\_\_\_\_

Witness: \_\_\_\_\_ (Name) \_\_\_\_\_ Title: \_\_\_\_\_ of \_\_\_\_\_ County, California (Signature)

COE contact/individual responsible for completing this section:

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

# **Board Policy**

## **Use Of School Facilities**

BP 1330

### **Community Relations**

\*\*\*Note: Education Code 38133 mandates that the Governing Board develop rules and regulations related to the management, direction, and control of school facilities. Pursuant to Education Code 38130-38138 (the Civic Center Act), school facilities are civic centers and, under certain circumstances, members of the school community must be allowed to use them for specified purposes. In granting access for use of school facilities to district residents and community groups, the Board must be careful to avoid discriminating against certain individuals, groups, or viewpoints and thereby violating constitutional requirements, including free speech rights. In *Good News Club v. Milford Central School*, the U.S. Supreme Court held that the school district violated the club's free speech rights when it denied the club use of school facilities for after-school meetings because of the religious nature of the meetings.\*\*\*

The Governing Board believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. Therefore, the Board authorizes the use of school facilities by district residents and community groups for purposes specified in the Civic Center Act, to the extent that such use does not interfere with school activities or other school-related uses.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 6145.5 - Student Organizations and Equal Access)

The Superintendent or designee shall give priority to school-related activities in the use of school facilities and grounds. Other uses authorized under the Civic Center Act shall be on a first-come, first-served basis.

\*\*\*Note: Pursuant to Education Code 38133, the Board is mandated to develop rules and regulations which must include the items specified below for the management, direction, and control of school facilities.\*\*\*

For the effective management and control of school facilities and grounds, the Superintendent or designee shall maintain procedures and regulations that: (Education Code 38133)

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities
2. Preserve order in school facilities and on school grounds and protect school facilities, designating a person to supervise this task, if necessary

(cf. 0450 - Comprehensive School Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work

\*\*\*Note: The following paragraph is optional and may be modified to reflect district practice.\*\*\*

Subject to prior approval by the Board, the Superintendent or designee may grant the use of school facilities or grounds on those days on which district schools are closed. (Education Code 37220)

(cf. 6115 - Ceremonies and Observances)

There shall be no advertising on school facilities and grounds except as allowed by district policy specified in BP 1325 - Advertising and Promotion.

(cf. 1325 - Advertising and Promotion)

\*\*\*Note: The following optional paragraph may be modified to reflect district practice. A district may enter into an agreement with another entity for the joint use of school facilities or grounds. For considerations to guide the development of such an agreement, see BP 1330.1 - Joint Use Agreements.\*\*\*

As necessary to ensure efficient use of school facilities, the Superintendent or designee may, with the Board's approval, enter into an agreement for the joint use of any school facilities or grounds. The Board shall approve any such agreement only if it determines that it is in the best interest of the district and the community.

(cf. 1330.1 - Joint Use Agreements)

## Fees

\*\*\*Note: Education Code 38134 authorizes districts to charge an amount "not exceeding" direct costs for the use of school facilities or grounds by community groups and entities. 5 CCR 14037-14041 contain specific rules adopted by the State Board of Education for determining "direct costs" to be charged for use of school facilities and grounds. See the section "Calculating Direct Costs" below. If the district chooses to charge fees, 5 CCR 14041 requires the Board to adopt a fee schedule that specifies the hourly fee to be charged by the district either for specific school facilities and grounds or for types or categories of school facilities or grounds (e.g., all gymnasiums or playgrounds).\*\*\*

The Board shall adopt a comprehensive schedule of fees to be charged for community use of school facilities and grounds, including, but not limited to, the multipurpose room(s), playing or athletic field(s), track and field venue(s), tennis court(s), and outdoor basketball court(s). The schedule of fees shall be prepared in accordance with 5 CCR 14037-14041. (5 CCR 14041)



(cf. 9320 - Meetings and Notices)

\*\*\*Note: Education Code 38134 mandates each district that chooses to charge the community a fee for the use of school facilities to adopt a policy specifying the activities and organizations that shall be subjected to the fees.\*\*\*

\*\*\*Note: The options below provide suggestions on how districts that choose to charge fees may categorize activities and organizations for that purpose. Option 1 is for use by districts that choose to charge an amount "not exceeding" direct costs to all community groups. Option 2 is for use by districts that choose to grant free use to nonprofit organizations and to groups organized to promote youth and school activities but charge other groups an amount "not exceeding" direct costs. Option 3 is for use by districts that grant free use to school-related organizations only.\*\*\*

\*\*\*Note: Regardless of the option chosen, there is an exception for the use of school facilities and grounds for religious services, as noted below.\*\*\*

OPTION 1: (Amount not exceeding direct costs to all community groups)

The Board believes that the use of school facilities or grounds should not result in an expense to the district. The Superintendent or designee shall charge all groups granted the use of school facilities or grounds under the Civic Center Act an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

OPTION 2: (No charge to nonprofit organizations and youth and school-oriented groups)

\*\*\*Note: This option reflects the common practice among districts to allow free use of school facilities by nonprofit organizations and clubs and associations that promote youth and school activities pursuant to Education Code 38134. Districts that wish to allow free use by some groups but charge other groups should proceed cautiously and ensure that such free use or discount is granted on a reasonable and nondiscriminatory basis. It is strongly recommended that districts consult legal counsel before deciding which groups will or will not be charged and, based upon legal counsel's advice, decide whether it would be appropriate to specifically name in the district's policy the community groups that will or will not be charged.\*\*\*

The Board authorizes the use of school facilities or grounds, without charge, by nonprofit organizations and by clubs or associations organized to promote youth and school activities, including, but not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent-teacher associations, school-community advisory councils, and recreational youth sports leagues that charge participants no more than an average of \$60 per month. Other groups that request the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

OPTION 3: (No charge to school-related organizations)

The Board authorizes the use of school facilities or grounds without charge to school-related

organizations whose activities are directly related to or for the benefit of district schools. All other groups requesting the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041.

\*\*\*Note: The remainder of this section is for use by all districts regardless of the option chosen above.\*\*\*

\*\*\*Note: Pursuant to Education Code 38134, any group authorized to use school facilities for religious services must be charged "at least" direct costs.\*\*\*

Additionally, when any use of school facilities or grounds is for religious services, the district shall charge an amount at least equal to the district's direct costs. (Education Code 38134)

\*\*\*Note: Education Code 38134 requires the district to charge fair rental value when facilities are used for fundraising activities which are not beneficial to youth, public school activities, or charitable purposes, under the conditions specified below. "Fair rental value" is defined as direct costs plus the amortized costs of the school facilities or grounds used for the duration of the activity.\*\*\*

Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 38134)

#### Calculating Direct Costs

Direct costs to be charged for community use of each, or each type of, school facility or grounds shall be calculated in accordance with 5 CCR 14038 and may reflect the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds
2. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services performed by district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds

\*\*\*Note: The following optional paragraph applies to districts that choose to discount direct cost fees based on the type or category of the applicant, such as to groups with tax-exempt status as authorized pursuant to 5 CCR 14041.\*\*\*

Direct cost fees shall not be discounted to any group or organization except when the discount is specifically authorized in the adopted fee schedule. (5 CCR 14041)

## Expending Funds Collected as Capital Direct Costs

Any funds collected as capital direct costs shall be deposited into a special fund to be used only for capital maintenance, repair, restoration, and refurbishment of school facilities and grounds. (5 CCR 14042)

## Use of School Facility as Polling Place

\*\*\*Note: Pursuant to Elections Code 12283, an elections official requesting the use of a school building as a polling place must include in his/her request a list of the schools needed. Such requests must be made within sufficient time before the start of the school year so that the Board can determine and notify parents/guardians whether (1) the school will remain in session on those days, (2) the school day will be designated for staff training and development, or (3) the school will be closed to students and nonclassified employees. See BP 6111 - School Calendar.\*\*\*

The Board may authorize the use of school buildings as polling places on any election day, and may also authorize the use of school buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building as a polling place, the Board shall allow its use for such purpose. If school will be in session, the Superintendent or designee shall identify to elections officials the specific areas of the school buildings not occupied by school activities that will be allowed for use as polling places. (Elections Code 12283)

(cf. 6111 - School Calendar)

When a school is used as a polling place, the Superintendent or designee shall provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting and shall make a telephone line for Internet access available for use by local elections officials if so requested. He/she shall make a reasonable effort to ensure that the site is accessible to persons with disabilities. (Elections Code 12283)

The Superintendent or designee shall establish procedures to ensure student safety and minimize disruptions whenever school is in session while the facilities are being used as a polling place.

(cf. 3515.2 - Disruptions)

## Legal Reference:

### EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

38130-38138 Civic Center Act, use of school property for public purposes

**BUSINESS AND PROFESSIONS CODE**

25608 Alcoholic beverage on school premises

**ELECTIONS CODE**

12283 Polling places: schools

**GOVERNMENT CODE**

54950-54963 The Ralph M. Brown Act

**MILITARY AND VETERANS CODE**

1800 Definitions

**CODE OF REGULATIONS, TITLE 5**

14037-14042 Proportionate direct costs for use of school facilities and grounds

**UNITED STATES CODE, TITLE 20**

7905 Equal access to public school facilities

**COURT DECISIONS**

Good News Club v. Milford Central School, (2001) 533 U.S. 98

Lamb's Chapel v. Center Moriches Union Free School District, (1993) 508 U.S. 384

Cole v. Richardson, (1972) 405 U.S. 676

Connell v. Higgenbotham, (1971) 403 U.S. 207

ACLU v. Board of Education of Los Angeles, (1961) 55 Cal .2d 167

Ellis v. Board of Education, (1945) 27 Cal.2d 322

**ATTORNEY GENERAL OPINIONS**

82 Ops.Cal.Atty.Gen. 90 (1999)

79 Ops.Cal.Atty.Gen. 248 (1996)

**Management Resources:**

**CSBA PUBLICATIONS**

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010

Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009

**WEB SITES**

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

(4/13 8/14) 7/18 (1/22)

# **Administrative Regulation**

## **Use Of School Facilities**

AR 1330

### **Community Relations**

\*\*\*Note: The following administrative regulation is mandated for the management, direction, and control of school facilities, pursuant to Education Code 38133.\*\*\*

#### **Application for Use of Facilities**

Any person applying for the use of any school facilities or grounds on behalf of any society, group, or organization shall present written authorization from the group or organization to make the application.

\*\*\*Note: The California Supreme Court has determined that the requirements of Education Code 38135 and 38136 are unconstitutional (ACLU v. Board of Education of City of Los Angeles). Although these provisions have not been repealed, districts are advised not to require any oath affirming that the group does not intend to take actions leading to the overthrow of the government.\*\*\*

\*\*\*Note: Other types of oaths have been held constitutionally acceptable. The California Supreme Court upheld the use of an oath that the individual or group does not intend to use school premises to commit unlawful acts (ACLU v. Board of Education), and the U.S. Supreme Court has upheld affirmative loyalty oaths for public employees, expressing a promise to support the federal and state constitutions (Connell v. Higgenbotham; Cole v. Richardson). The accompanying exhibit provides a sample facilities use statement. The following paragraph is optional.\*\*\*

Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.

#### **Civic Center Use**

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131)

1. Public, literary, scientific, recreational, educational, or public agency meetings
2. The discussion of matters of general or public interest

\*\*\*Note: An Attorney General Opinion (79 Ops.Cal.Atty.Gen. 248 (1996)) found

unconstitutional the section of Education Code 38131 which provides that a board may grant the use of school facilities to a religious group to conduct services only when the religious group has no other suitable meeting place. Although Attorney General opinions do not carry the force of law, they are given deference by the courts in the case of legal challenge. Therefore, a district should consult legal counsel before requiring a religious organization to establish that it lacks another suitable meeting place for the conduct of its services in order to rent school facilities. In that same opinion, the Attorney General also determined that Education Code 38131 does not limit the renewability of the temporary use permit for school facilities by a religious organization. Thus, legal counsel should also be consulted before a district refuses to renew a temporary permit. Item #3 below is consistent with the Attorney General's interpretation of Education Code 38131.\*\*\*

3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization

4. Child care programs to provide supervision and activities for children of preschool and elementary school age

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies

6. Supervised recreational activities, including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination

7. A community youth center

\*\*\*Note: Pursuant to Education Code 32282, procedures to allow school facilities to be used by public agencies, such as the Red Cross, for mass care and welfare shelters during an emergency must be included in the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.\*\*\*

8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

9. A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization

A veterans' organization means the American Legion, Veterans of Foreign Wars,

Disabled American Veterans, United Spanish War Veterans, Grand Army of the Republic, or other duly recognized organization of honorably discharged soldiers, sailors, or marines of the United States, or any of their territories. (Military and Veterans Code 1800)

\*\*\*Note: Education Code 38131 allows the district to grant use of school facilities for other purposes as deemed appropriate. The district may add any other purposes approved by the Governing Board.\*\*\*

#### 10. Other purposes deemed appropriate by the Governing Board

##### Restrictions

\*\*\*Note: In adopting rules for the management and control of school facilities, districts must be careful to ensure that they do not impose restrictions that may violate constitutionally protected rights. Generally, court decisions have held that districts may not discriminate on the basis of a group's viewpoint, and thus the use of facilities should be granted on a neutral basis. In *Good News Club v. Milford Central School*, the U.S. Supreme Court held that a district which prohibited a religious club from using school facilities after school hours for activities for which it allowed other community groups to use the school facilities discriminated against the club on the basis of the club's religious viewpoint in violation of the First Amendment to the United States Constitution.\*\*\*

\*\*\*Note: Because federal and state constitutional free speech issues may be involved when a district denies the use of school facilities to certain groups, it is strongly recommended that a district consult with legal counsel before doing so.\*\*\*

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law
2. Any use which is inconsistent with the use of school facilities for school purposes or which interferes with the regular conduct of school or school work
3. Any use which involves the possession, consumption, or sale of drugs or any restricted substances, including tobacco

(cf. 3513.3 - Tobacco-Free Schools)

\*\*\*Note: Pursuant to Business and Professions Code 25608, it is a misdemeanor to possess, consume, sell, give, or deliver any alcoholic beverage to any person in a school building or on school grounds unless a specified exception applies. One such exception is serving alcohol during a special event, pursuant to a license or permit obtained under the Alcohol Beverage Control Act, at district-owned facilities at a time when students are not present. For this purpose, "facilities" include, but are not limited to, office complexes, conference centers, or retreat facilities. Although Business and Professions Code 25608 allows this exception, the district

should consult legal counsel and/or risk management personnel when determining whether to allow alcohol on district property pursuant to this exception. When a district allows the use of its facilities or grounds for events that may involve the serving or consumption of alcoholic beverages, it is recommended that rules and/or limitations be established to minimize risks to the district and attendees at such events (e.g., requiring security guards and/or additional insurance, limiting the presence of alcoholic beverages to designated areas, limiting the types of beverages and/or how many drinks can be served at a time, specifying the time period during which alcoholic beverages may be served). Item #4 is optional and may be deleted or revised to reflect any limitations imposed on the facility user.\*\*\*

4. Any use which involves the possession, consumption, or sale of alcoholic beverages, except for special events approved by the Superintendent or designee pursuant to Business and Professions Code 25608 which are covered by a special events permit pursuant to Division 9 of the Business and Professions Code and which will occur at a time when students are not on the grounds. Any such use of school facilities shall be subject to any limitations that may be necessary to reduce risks to the district and ensure the safety of participants, as determined by the Superintendent or designee. Applicable limitations shall be clearly stated in the facility use agreement to be signed by the user's representative.

\*\*\*Note: Districts may exclude certain facilities from community use for safety or security reasons. Such facilities might include (1) offices or computer rooms containing records and confidential information and (2) science rooms and other rooms containing hazardous chemicals or equipment that cannot be used safely without special knowledge or skills. The following paragraph is optional and may be revised to specify excluded facilities.\*\*\*

The district may exclude certain school facilities from nonschool use for safety or security reasons.

#### Damage and Liability

\*\*\*Note: Pursuant to Education Code 38134, a district is authorized to take the actions specified in the following optional paragraph when damage to school facilities or grounds occurs from use by a nonprofit group, organization, club, or association that promotes youth and school activities.\*\*\*

Groups, organizations, or persons using school facilities or grounds shall be liable for any property damage caused by the activity. The district may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds. (Education Code 38134)

\*\*\*Note: Education Code 38134 distinguishes the liability and insurance obligations of nonprofit groups, clubs, and associations that promote youth and school activities from those of the district. The district is liable for any injuries resulting from its negligence in the ownership and maintenance of its facilities and grounds and must bear the cost of insuring against these risks and defending itself from related claims.\*\*\*



Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk. (Education Code 38134)

Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence when using school facilities. (Education Code 38134)

\*\*\*Note: Pursuant to Education Code 38134, groups that promote youth and school activities cannot be required to sign hold harmless and indemnification agreements agreeing to defend and indemnify the district against liability arising during the group's use of school facilities to the extent that the agreement requires the group to assume liability for the district's negligence. The statute is unclear as to whether the district can require non-youth-related groups to indemnify the district from any and all injuries resulting from the use of the facilities. Districts wishing to create such an agreement should consult legal counsel.\*\*\*

\*\*\*Note: Because hold harmless agreements are only as strong as the groups' credit, districts should generally require proof of insurance in addition to such agreements. When a hold harmless and indemnification agreement appears necessary for any specific school facilities or a specific event, the district's risk manager, insurance carrier, or legal counsel should tailor it to the situation.\*\*\*

As permitted, the Superintendent or designee may require a hold harmless agreement and indemnification when warranted by the type of activity or the specific facilities being used.

(cf. 3515.21 - Unmanned Aircraft Systems (Drones))

(4/13 4/15) 7/18 (1/22)

# **Exhibit**

## **Use Of School Facilities**

E 1330

## **Community Relations**

Flournoy Union SCHOOL DISTRICT

### **FACILITIES USE STATEMENT**

The undersigned, \_\_\_\_\_, is duly authorized by \_\_\_\_\_ (Flournoy Union Elementary School) \_\_\_\_\_, to act on its behalf in requesting the use of school facilities, including, but not limited to, executing any agreement or undertaking required by law and district policy and regulations governing the use of the facilities.

The organization shall comply with all restrictions placed on the use of the school facilities by law or district policy or regulations.

The organization recognizes that, in accordance with Education Code 38134, it is liable for any damage to the school facilities or for any injury to any person due to the organization's negligence in using the school facilities.

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Organization)

(9/87 6/89) 4/13 (1/22)

# **Board Policy**

## **Tobacco-Free Schools**

BP 3513.3

### **Business and Noninstructional Operations**

\*\*\*Note: Health and Safety Code 104420 mandates districts receiving Tobacco-Use Prevention Education (TUPE) funds to adopt a tobacco-free schools policy that prohibits the use of tobacco and nicotine products anytime, anywhere in district-owned or leased buildings, on school or district property, and in district vehicles. The same prohibition is applicable to districts that do not receive TUPE funds pursuant to Health and Safety Code 104559, as added by ABX2 9 (Ch. 5, Statutes of 2016).\*\*\*

\*\*\*Note: Districts receiving TUPE funds must certify compliance with this requirement by submitting a California Department of Education (CDE) certification form and supporting documentation to the county office of education's TUPE coordinator by July 1 in order to apply for TUPE funding for that fiscal year. The certification process also requires submission of the district's written policy and enforcement procedures; see the accompanying administrative regulation for enforcement procedures.\*\*\*

The Governing Board recognizes that smoking and other uses of tobacco and nicotine products constitute a serious public health hazard and are inconsistent with district goals to provide a healthy environment for students and staff.

(cf. 3514 - Environmental Safety)  
(cf. 4159/4259/4359 - Employee Assistance Programs)  
(cf. 5030 - Student Wellness)  
(cf. 5131.62 - Tobacco)  
(cf. 5141.23 - Asthma Management)  
(cf. 6142.8 - Comprehensive Health Education)  
(cf. 6143 - Courses of Study)

The Board prohibits smoking and/or the use of tobacco products at any time in district-owned or leased buildings, on district property, and in district vehicles. (Health and Safety Code 104420, 104559)

These prohibitions apply to all employees, students, and visitors at any school-sponsored instructional program, activity, or athletic event held on or off district property. Any written joint use agreement governing community use of district facilities or grounds shall include notice of the district's tobacco-free schools policy and consequences for violations of the policy.

(cf. 1330 - Use of School Facilities)  
(cf. 1330.1 - Joint Use Agreements)

\*\*\*Note: Health and Safety Code 104420 and 104559, as added by ABX2 9 (Ch. 5, Statutes of 2016), define products containing tobacco and nicotine as including smokeless tobacco, snuff, chew, clove cigarettes, and electronic cigarettes that can deliver nicotine and non-nicotine vaporized solutions. Education Code 48901, which prohibits smoking or tobacco use by students on campus, applies the definition of smoking and tobacco products specified in Business and Professions Code 22950.5, as amended by SBX2 5 (Ch. 7, Statutes of 2016). The following paragraphs reflect the more comprehensive definitions in Business and Professions Code 22950.5.\*\*\*

Smoking means inhaling, exhaling, burning, or carrying of any lighted or heated cigar, cigarette, pipe, tobacco, or plant product intended for inhalation, whether natural or synthetic, in any manner or form, and includes the use of an electronic smoking device that creates aerosol or vapor or of any oral smoking device for the purpose of circumventing the prohibition of smoking. (Business and Professions Code 22950.5; Education Code 48901)

Tobacco products include: (Business and Professions Code 22950.5; Education Code 48901)

1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff
2. An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah
3. Any component, part, or accessory of a tobacco product, whether or not sold separately

This policy does not prohibit the use or possession of prescription products and other cessation aids that have been approved by the U.S. Department of Health and Human Services, Food and Drug Administration, such as nicotine patch or gum.

Smoking or use of any tobacco-related product or disposal of any tobacco-related waste is prohibited within 25 feet of any playground, except on a public sidewalk located within 25 feet of the playground. In addition, any form of intimidation, threat, or retaliation against a person for attempting to enforce this policy is prohibited. (Health and Safety Code 104495)

#### Legal Reference:

##### EDUCATION CODE

48900 Grounds for suspension/expulsion

48901 Prohibition against tobacco use by students

##### BUSINESS AND PROFESSIONS CODE

22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions

##### HEALTH AND SAFETY CODE

39002 Control of air pollution from nonvehicular sources  
104350-104495 Tobacco use prevention, especially:  
104495 Prohibition of smoking and tobacco waste on playgrounds  
104559 Tobacco use prohibition  
119405 Unlawful to sell or furnish electronic cigarettes to minors  
LABOR CODE  
3300 Employer, definition  
6304 Safe and healthful workplace  
6404.5 Occupational safety and health; use of tobacco products  
UNITED STATES CODE, TITLE 20  
6083 Nonsmoking policy for children's services  
7111-7122 Student Support and Academic Enrichment Grants  
CODE OF FEDERAL REGULATIONS, TITLE 21  
1140.1-1140.34 Unlawful sale of cigarettes and smokeless tobacco to minors  
PUBLIC EMPLOYMENT AND RELATIONS BOARD RULINGS  
Eureka Teachers Assn. v. Eureka City School District (1992) PERB Order #955 (16 PERC 23168)  
CSEA #506 and Associated Teachers of Metropolitan Riverside v. Riverside Unified School District (1989) PERB Order #750 (13 PERC 20147)

Management Resources:

WEB SITES

California Department of Education, Alcohol, Tobacco and Other Drug Prevention:

<http://www.cde.ca.gov/ls/he/at>

California Department of Education, Tobacco-Free School District Certification:

<http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp>

California Department of Public Health, Tobacco Control:

<http://www.cdph.ca.gov/programs/tobacco>

Occupational Safety and Health Standards Board: <http://www.dir.ca.gov/OSHSB/oshsb.html>

U.S. Environmental Protection Agency: <http://www.epa.gov>

(3/11 4/14) 7/16 (1/22)

# **Administrative Regulation**

## **Tobacco-Free Schools**

AR 3513.3

### **Business and Noninstructional Operations**

#### **Notifications**

\*\*\*Note: Districts receiving Tobacco-Use Prevention Education (TUPE) funds are required by Health and Safety Code 104420 to communicate information about the district's tobacco-free schools policy. Districts that do not receive TUPE funds may delete or revise the following paragraph at their discretion.\*\*\*

Information about the district's tobacco-free schools policy and enforcement procedures shall be communicated clearly to employees, parents/guardians, students, and the community. (Health and Safety Code 104420)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

\*\*\*Note: The following optional paragraph may be revised to reflect district practice.\*\*\*

The Superintendent or designee may disseminate this information through annual written notifications, district and school web sites, student and parent handbooks, and/or other appropriate methods of communication.

(cf. 1113 - District and School Web Sites)

\*\*\*Note: Health and Safety Code 104559, as added by ABX2 9 (Ch. 5, Statutes of 2016), requires all districts to display signs prohibiting tobacco use, as provided below.\*\*\*

The Superintendent or designee shall ensure that signs stating "Tobacco use is prohibited" are prominently displayed at all entrances to school property. (Health and Safety Code 104420, 104559)

#### **Enforcement/Discipline**

\*\*\*Note: Pursuant to Labor Code 6404.5, no employer shall knowingly or intentionally permit the smoking of tobacco products in an enclosed space at a place of employment. The effects of the district's tobacco policy, including any disciplinary action taken against employees resulting from the enforcement of the policy, may be subjects of negotiation between the Governing Board and employee organizations. Pursuant to Education Code 48900(h), a student may be subject to disciplinary action when it is determined that he/she possessed or used tobacco or nicotine products; see AR 5144.1 - Suspension and Expulsion/Due Process.\*\*\*

Any employee or student who violates the district's tobacco-free schools policy shall be asked to refrain from smoking and shall be subject to disciplinary action as appropriate.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

\*\*\*Note: Labor Code 6404.5 requires the district to take "reasonable steps" to prevent smoking by nonemployees. These reasonable steps include posting clear and prominent signs as specified in the "Notifications" section above and requesting that the nonemployee refrain from smoking on school premises. The following optional paragraph may be revised to reflect district practice.\*\*\*

Any other person who violates the district's policy on tobacco-free schools shall be informed of the district's policy and asked to refrain from smoking. If the person fails to comply with this request, the Superintendent or designee may:

1. Direct the person to leave school property
2. Request local law enforcement assistance in removing the person from school premises
3. If the person repeatedly violates the tobacco-free schools policy, prohibit him/her from entering district property for a specified period of time

(cf. 1250 - Visitors/Outsiders)

(cf. 3515.2 - Disruptions)

The Superintendent or designee shall not be required to physically eject a nonemployee who is smoking or to request that the nonemployee refrain from smoking under circumstances involving a risk of physical harm to the district or any employee. (Labor Code 6404.5)

(7/02 3/11) 7/16 (1/22)

# **Board Policy**

## **Tobacco**

BP 5131.62

### **Students**

The Governing Board recognizes the serious health risks presented by tobacco use and desires to ensure that, through adoption of consistent policies, district students are made aware of those risks and, to the extent possible, protected from them. The Superintendent or designee shall establish a coordinated school health system which includes a comprehensive behavioral health education component that teaches students the knowledge, skills, and attitudes they need in order to lead healthy lives and avoid high-risk behaviors, such as tobacco use.

(cf. 5141.23 - Asthma Management)

The Superintendent or designee shall provide prevention, intervention, and cessation education, information, activities, and/or referrals to district students and shall ensure consistent enforcement of district policies prohibiting student possession and use of tobacco products.

### **Prohibition Against Tobacco Use**

\*\*\*Note: Education Code 48900 and 48901 prohibit students from possessing, smoking, or using tobacco on school grounds, as provided in the following paragraph. Pursuant to Education Code 48900, students who violate this prohibition may be subject to discipline, including suspension or expulsion. However, pursuant to Education Code 48900.5, it is recommended that other means of correction that address the student's conduct be implemented instead of suspension or expulsion; see the section "Intervention/Cessation Services" below and AR 5144 - Discipline. In addition, Health and Safety Code 104420 and 104559, as added by ABX2 9 (Ch. 5, Statutes of 2016), prohibit the use of tobacco products in district buildings, on district property, and in district vehicles by any person at any time; see BP 3513.3 - Tobacco-Free Schools.\*\*\*

Students shall not possess, smoke, or use tobacco or any product containing tobacco or nicotine while on campus, while attending school-sponsored activities, or while under the supervision and control of district employees. (Education Code 48900, 48901)

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

\*\*\*Note: The following definitions of "smoking" and "tobacco products" are specified in Business and Professions Code 22950.5 and incorporated by reference into Education Code 48901, as amended by SBX2 5 (Ch. 7, Statutes of 2016).\*\*\*

Smoking means inhaling, exhaling, burning, or carrying of any lighted or heated cigar, cigarette,



pipe, tobacco, or plant product intended for inhalation, whether natural or synthetic, in any manner or form, and includes the use of an electronic smoking device that creates aerosol or vapor or of any oral smoking device for the purpose of circumventing the prohibition of smoking. (Business and Professions Code 22950.5; Education Code 48901)

Tobacco products include: (Business and Professions Code 22950.5; Education Code 48901)

1. A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff
2. An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah
3. Any component, part, or accessory of a tobacco product, whether or not sold separately

These prohibitions do not apply to a student's possession or use of his/her own prescription products. However, student possession or use of prescription products in school shall be subject to the district's policy and regulation for addressing the administration of medications on campus. (Education Code 48900)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

#### Prevention Instruction

\*\*\*Note: The following optional section may be revised to reflect district practice and the grade levels offered by the district. Education Code 51202 requires the district to offer a course of study at the appropriate elementary and secondary grade levels that includes the effects of tobacco upon the human body. Education Code 51202 also requires that the course of study in secondary grades include instruction on the effects of tobacco upon prenatal development. See AR 6143 - Courses of Study. The state's content standards for health education include a number of standards at selected grade levels from K-12 related to the health consequences of tobacco use.\*\*\*

\*\*\*Note: The TUPE program provides resources for supplemental instruction in grades 6-12 that addresses specified topics; see the accompanying administrative regulation. CDE's Guidelines for Tobacco Prevention, contained in its Getting Results publication, recommend developmentally appropriate instruction in grades K-12, with instruction that is especially intensive in grades 6-9 (particularly the transition year from elementary to middle school/junior high) and is reinforced in high school.\*\*\*

The district shall provide developmentally appropriate tobacco-use prevention instruction for students at selected grade levels from K-12 pursuant to Education Code 51202. Such instruction shall be aligned with state content standards and the state curriculum framework for health

education and with any requirements of state and/or federal grant programs in which the district participates.

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

#### Intervention/Cessation Services

\*\*\*Note: The following optional section may be revised to reflect district practice. Pursuant to Health and Safety Code 104420 and 104460, districts receiving TUPE funds must provide students with access to intervention and cessation services and must provide pregnant and parenting minors with access to designated services. The district may fulfill these requirements either through the direct provision of services or through referrals to available services. See the accompanying administrative regulation. Pursuant to Education Code 48900.5, such intervention should be implemented to correct student behavior rather than suspension or other measures that may exclude a student from instruction.\*\*\*

The district may provide or refer students to counseling, intensive education, and other intervention services to assist in the cessation of tobacco use. Such intervention services shall be provided as an alternative to suspension for tobacco possession.

(cf. 5141.6 - School Health Services)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6164.2 - Guidance/Counseling Services)

#### Program Planning

\*\*\*Note: The following optional section may be revised to reflect district practice.\*\*\*

\*\*\*Note: Health and Safety Code 104420 requires the CDE to give priority for TUPE funding to programs that, in addition to targeting current tobacco users, target students most at risk for beginning to use tobacco. Student populations considered to be "most at risk" are to be identified by the district through a local needs assessment, as provided in the following paragraph.\*\*\*

The district's tobacco-use prevention and intervention program shall be based on an assessment of tobacco-use problems in district schools and the community, an examination of existing services and activities in the community, and a determination of high-risk student populations that are most in need of district services.

\*\*\*Note: The following optional paragraph may be revised to reflect district practice. Health and Safety Code 104420 and 104435 require districts receiving TUPE funds, with assistance from the county office of education, to coordinate efforts with the "lead local agency" in the community, defined in Health and Safety Code 104400 as the county or city health department.\*\*\*

The Superintendent or designee shall coordinate with the local health department and county office of education in program planning and implementation. He/she may establish an advisory

council including students, parents/guardians, district staff, representatives of the local health department and community organizations, law enforcement professionals, and/or others with demonstrated expertise in tobacco prevention and cessation.

(cf. 1220 - Citizen Advisory Councils)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

The Superintendent or designee also shall coordinate the district's tobacco-use prevention and intervention program with other district efforts to reduce students' use of illegal substances and to promote student wellness.

(cf. 5030 - Student Wellness)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.63 - Steroids)

\*\*\*Note: The following paragraph is for use by districts that receive TUPE funds and may be used by other districts at their discretion.\*\*\*

The Superintendent or designee shall select tobacco-use prevention programs based on the model program designs identified by the California Department of Education (CDE) and may adapt the model to meet district needs. (Health and Safety Code 104420)

\*\*\*Note: Pursuant to TUPE Acceptance of Funds Guidance on the CDE's web site, TUPE grant funding will not be awarded to an applicant that receives any funding or educational materials from the tobacco industry, or from any agency which has received funding from the tobacco industry, for the purpose of implementing tobacco-use prevention or intervention programs.\*\*\*

The Superintendent or designee shall not accept for distribution any materials or advertisements that promote the use or sale of tobacco products. He/she also shall not accept tobacco-use prevention or intervention funds or materials from the tobacco industry or from any entity which is known to have received funding from the tobacco industry.

(cf. 1325 - Advertising and Promotion)

(cf. 3290 - Gifts, Grants and Bequests)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

#### Program Evaluation

\*\*\*Note: The following optional section may be revised to reflect district practice. Districts that accept TUPE funds are required by the CDE to administer the core California Healthy Kids Survey in the first year of funding and at least every other year thereafter to assess the health-related behavior of a representative sample of students in grades 7, 9, and 11. In addition, districts that receive funding through TUPE are required to complete the TUPE Annual Report by June 30 of each year.\*\*\*

To evaluate the effectiveness of the district's program and ensure accountability, the

Superintendent or designee shall biennially administer the California Healthy Kids Survey or other appropriate student survey at selected grade levels in order to assess student attitudes toward tobacco and student use of tobacco. He/she also shall annually report to the Board, and to the CDE if required, the data specified in Health and Safety Code 104450.

(cf. 0500 - Accountability)

(cf. 5022 - Student and Family Privacy Rights)

(cf. 6162.8 - Research)

The results of program evaluations shall be used to refine program goals and objectives and make changes as needed to strengthen program implementation.

#### Legal Reference:

##### EDUCATION CODE

8900 Suspension or expulsion (grounds)

48900.5 Suspension, limitation on imposition; exception

48901 Smoking or use of tobacco prohibited

51202 Instruction in personal and public health and safety

60041 Instructional materials, portrayal of effects of tobacco use

##### BUSINESS AND PROFESSIONS CODE

22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions

##### HEALTH AND SAFETY CODE

104350-104495 Tobacco-use prevention education

104559 Tobacco use prohibition

119405 Unlawful to sell or furnish electronic cigarettes to minors

##### PENAL CODE

308 Minimum age for tobacco possession

##### CODE OF REGULATIONS, TITLE 17

6800 Definition, health assessment

6844-6847 Child Health and Disability Prevention program; health assessments

##### UNITED STATES CODE, TITLE 20

7111-7122 Student Support and Academic Enrichment Grants

##### CODE OF FEDERAL REGULATIONS, TITLE 21

1140.1-1140.34 Unlawful sale of cigarettes and smokeless tobacco to minors

##### ATTORNEY GENERAL OPINIONS

88 Ops.Cal.Atty.Gen. 8 (2005)

#### Management Resources:

##### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

TUPE Acceptance of Funds Guidance

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Health Framework for California Public Schools: Kindergarten Through Grade Twelve, 2003

Getting Results: Part II California Action Guide to Tobacco Use Prevention Education, 2000

## WEST ED PUBLICATIONS

Guidebook for the California Healthy Kids Survey

## WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Tobacco-Use Prevention Education:

<http://www.cde.ca.gov/ls/he/at/tupe.asp>

California Department of Public Health, Tobacco Control:

<http://www.cdph.ca.gov/programs/tobacco>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Healthy Kids Survey: <http://www.wested.org/hks>

Centers for Disease Control and Prevention, Smoking and Tobacco Use:

<http://www.cdc.gov/tobacco>

U.S. Surgeon General: <http://www.surgeongeneral.gov>

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# **Administrative Regulation**

## **Tobacco**

AR 5131.62

### **Students**

#### **Tobacco-Use Prevention Education Program**

\*\*\*Note: The following optional administrative regulation reflects requirements of the state's Tobacco-Use Prevention Education (TUPE) program pursuant to Health and Safety Code 104350-104495 and may be adapted by other districts that do not receive TUPE funding.\*\*\*

\*\*\*Note: The TUPE program provides competitive grant funding for local programs targeting students in grades 6-12. The district may modify the following administrative regulation to reflect the grades at which the district's program is offered.\*\*\*

The district's tobacco-use prevention program shall provide students in grades 6-12 instruction which addresses the following topics: (Health and Safety Code 104420)

1. Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use
2. Reasons that adolescents say they smoke or use tobacco
3. Peer norms and social influences that promote tobacco use
4. Refusal skills for resisting social influences that promote tobacco use

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

\*\*\*Note: Health and Safety Code 104420 requires local TUPE programs to provide access to intervention and cessation services to high-risk groups in grades 7-12. The California Department of Education (CDE) has determined that these services should be directed toward current users and should be voluntary for students. The CDE's TUPE program application clarifies that districts are not required to directly provide the services, but may instead refer students to community services to satisfy this requirement.\*\*\*

As appropriate, the district shall provide or refer students in grades 7-12 to tobacco-use intervention and cessation activities. (Health and Safety Code 104420)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 5141.6 - School Health Services)

(cf. 6164.2 - Guidance/Counseling Services)

These services shall be directed toward current users and shall be voluntary for students who desire assistance in ceasing the use of tobacco.

\*\*\*Note: The following paragraph is optional. In addition to targeting current tobacco users, Health and Safety Code 104420 requires the CDE to give funding priority to programs that target students most at risk for beginning to use tobacco. Student populations considered to be "most at risk" are to be identified by the district through a local needs assessment; see the accompanying Board policy. On the TUPE application, the district must provide a description of the student population and the district's rationale for designating that population as "high risk." Examples of "high-risk" populations may include students whose parents/guardians smoke, students transitioning from one educational setting to another (e.g., middle school to high school), or students in continuation education or other nontraditional education settings.\*\*\*

In addition to targeting students who currently use tobacco, the district's program shall target students most at risk for beginning to use tobacco as identified through a local needs assessment.

\*\*\*Note: Health and Safety Code 104460 requires districts receiving TUPE funds to provide access to tobacco-use prevention and intervention services to pregnant and parenting students, as provided below. The TUPE application clarifies that districts are not required to directly provide the following services, but may instead refer students to community services.\*\*\*

The district shall provide or refer every pregnant and parenting minor enrolled in the district to tobacco-use prevention services. Such services may be integrated with existing programs for pregnant and parenting minors and shall include: (Health and Safety Code 104460)

1. Referral to perinatal and related support services
2. Outreach services and assessment of smoking status
3. Individualized counseling and advocacy services
4. Motivational messages
5. Cessation services, if appropriate
6. Incentives to maintain a healthy lifestyle
7. Follow-up assessment
8. Maintenance and relapse prevention services

(cf. 5146 - Married/Pregnant/Parenting Students)

(7/05 3/06) 7/09 (1/22)