

CLASSIFICATION: Students**ADOPTED: 10/11/95****REVISED: 3/24/03****SUBJECT: Rights and Responsibilities of Students****PAGE: 1 of 6**

PRIVACY RIGHTS OF STUDENTS

The County Superintendent of Schools recognizes that personal beliefs are a private matter. Without the written notice and written consent of a parent/guardian, no student shall be given any test, survey, questionnaire or examination containing questions about personal or family beliefs or practices in sex, family life, morality, or religion.

SEARCH AND SEIZURE

The County Superintendent of Schools recognizes that incidents may occur where the health, safety and welfare of students and staff are jeopardized and which necessitate the search and seizure of students or their property by San Diego County Office of Education officials.

The County Superintendent of Schools authorizes program administrators to conduct searches when there are reasonable grounds or suspicion that the search will uncover evidence that the student is violating the law or the rules of the San Diego County Office of Education or program unit. The County Superintendent of Schools urges that discretion, good judgment, and common sense be exercised in all cases of search and seizure. Every attempt shall be made to contact a law enforcement officer prior to a search of a student. When a law enforcement officer is not available, searches shall be made in the presence of at least one other employee of the County Superintendent of Schools. Employees shall not conduct strip searches or body cavity searches.

In determining whether reasonable cause for a search exists, program administrators shall consider:

- The age and previous behavior patterns of the student.
- The prevalence and seriousness of the problem to which the search is directed.
- The urgency requiring the search without delay.
- The substantiative value and reliability of the information used as a justification for the search.
- The location of the student at the time of the incident that gave rise to reasonable suspicion.

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The program administrator shall notify the parent/guardian of the student being searched as soon after the search as is reasonably possible.

STUDENT PHOTOGRAPHS

The County Superintendent of Schools intends to protect students from exploitation and to respect a student's right to privacy. Therefore, taking photographs of students is limited to school or program use. Photographs of any student under eighteen (18) years of age, or any special education student regardless of age, may not be taken without prior written consent of the parent/guardian. Students who are designated wards and/or dependents of the Court may not be photographed without a court order permitting such photographs.

The County Superintendent of Schools assigns responsibility for protecting students from being photographed without proper authorization to the assistant superintendents. The County Superintendent of Schools also prohibits employees from photographing students for publication or commercial use without consent.

FREEDOM OF SPEECH/EXPRESSION

The County Superintendent of Schools recognizes the right of the individual student to exercise freedom of expression; however, the establishment of a public educational program requires the formation of rules and regulations to maintain an orderly process of learning with standards of student conduct and language appropriate to an academic environment.

The County Superintendent of Schools directs that students shall have the right to exercise freedom of speech and of the press. The County Superintendent of Schools authorizes students to use bulletin boards, to distribute printed materials or petitions, to wear buttons, badges, or other insignia and to freely express opinions in official publications. Students shall be prohibited from expression that is obscene, libelous, or slanderous.

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Also prohibited shall be material that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations or the substantial disruption of the orderly operation of the school or program operated by the County Superintendent of Schools.

NOTIFICATIONS TO PARENTS/GUARDIANS AND STUDENTS REQUIRED BY LAW

The County Superintendent of Schools recognizes the importance of communication between the home and school. The County Superintendent of Schools directs that students and parents/guardians shall be sent all notifications required by law, including notifications about their legal rights.

The County Superintendent of Schools directs that program administrators of schools and programs operated by the County Superintendent of Schools shall distribute annually to the parent/guardian of all minor students a written notice regarding the rights and responsibilities of the parent/guardian. The annual notice shall include all applicable notifications required by Education Code section 48980.

The County Superintendent of Schools desires that, insofar as practicable, notifications shall be written in the student's home language. Whenever a teacher learns that a student's parent/guardian is for any reason unable to understand printed notifications, the program administrator shall provide the parent/guardian assistance in establishing other appropriate means of communication.

SEXUAL HARASSMENT

The County Superintendent of Schools prohibits unlawful sexual harassment of or by any student or by anyone in or from the San Diego County Office of Education. This includes verbal, visual, or physical conduct of a sexual nature or of a hostile nature based on gender, that is unwelcome and pervasive or severe. This includes "student-to-student," or peer, sexual harassment and teacher-student harassment. Teachers shall discuss this administrative regulation with their students in age-appropriate ways and shall assure students that they need not endure any form of sexual harassment.

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Any student who engages in the sexual harassment of anyone in or from the San Diego County Office of Education may be subject to disciplinary action. For disciplinary purposes, student conduct 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. Any employee who permits known sexual harassment or engages in sexual harassment may be subject to disciplinary action up to and including dismissal.

The County Superintendent of Schools expects students and staff to immediately report incidents of sexual harassment to the program administrator or his/her designee or to another program administrator. Any student who feels he/she is being harassed should immediately contact the program administrator or his/her designee or another program administrator in order to obtain a copy of the complaint procedures. Complaints of sexual harassment can be filed in accordance with these procedures. (See Board Policy No. 4004.)

The County Superintendent of Schools prohibits retaliatory behavior against any complainant or any participant in the complaint process. Each complaint of sexual harassment shall be promptly investigated in a way that protects confidentiality and respects the privacy of all parties concerned.

STUDENT SUSPENSION/DUE PROCESS

The County Superintendent of Schools shall provide for the fair and equitable treatment of students facing suspension affording them their due process rights under the law.

Suspension from Class

A teacher may suspend any pupil from the teacher's class for any of the acts enumerated in Education Code section 48900 for the day of the suspension and the day following. The teacher shall immediately report this action to the school site administrator.

The school site administrator may suspend a pupil from school for any of the acts enumerated in Education Code section 48900 for no more than five consecutive schooldays or 30 days in any school year.

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Suspension shall be preceded by an informal conference conducted by the site administrator or designee with the student and, whenever practicable, the teacher, supervisor or school employee who referred the student to the site administrator. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense. This conference may be omitted if the site administrator determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school.

Notices to Parents

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters.

Attendance of Suspended Student's Parent/Guardian for Part of School Day

When a student is suspended from a class for committing an obscene act, engaging in profanity or vulgarity, disrupting school activities or otherwise defying the valid authority of school personnel, the teacher may require the student's parent/guardian to attend a portion of the school day in the class. The parent/guardian shall receive written notice that such attendance is required pursuant to law.

SAN DIEGO COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 5145**

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Board Policy No.: 4004

Derivation: Former Board Policy No. 5217, Freedom of Expression, Adopted 7/14/76. Repealed 10/11/95. See now Administrative Regulation No. 5145. Amended 9/9/97, 3/24/03.

Legal Reference: Civil Code

51.9

Education Code

200-201, 210, 212- 231.5, 48900 et seq., 48950, 48980, 49050-49051

Penal Code

422.6

California Code of Regulations, Title 5

303, 4916, 4964

California Constitution

Article 1, Section 2

Federal Legislation

20 U.S.C. § 1681 et seq., Title IX, Educational Amendments of 1972

U.S. Constitution

Amendment 1

Court Decisions

New Jersey v. T.L.O. (1985) 469 U.S. 325

Davis v. Monroe County Board of Education (1999) 526 U.S. 629