

**Tri-Valley Regional Occupational Center/Program  
Board Policies and Administrative Regulations**

**SERIES 5000 – STUDENTS**

Entrance into the ROP.....	5111	BP/AR
Attendance.....	5112	BP/AR
Attendance Records.....	5114	BP
Suspension and Exclusion .....	5115	BP/AR
Progress.....	5120	BP
Credits Awarded to Students .....	5120.1	BP
Examinations.....	5121	BP/AR
Student Records: Confidentiality .....	5122	BP/AR
Conduct .....	5130	BP/AR
Drugs and Alcohol .....	5131	BP
Organizations .....	5132	BP
Management of Funds.....	5133	BP
Class Gifts to Schools .....	5134	BP
Smoking Policy .....	5135	BP
Physical Examination .....	5136	BP
Student Due Process.....	5139	BP/AR
Child Abuse Prevention and Reporting .....	5200	BP/AR
Sexual Harassment.....	5300	BP/AR

Revised: 6/10/99  
9/28/10; 9/14/11

Students

**Entrance into the ROP**

Admission of students is based upon participating school's recommendations. Preference shall be for those students enrolled in the Eleventh and Twelfth grades, with adults having the lowest priority.

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

Students

**Entrance into the ROP**

Prohibition Against Discrimination or Harassment

It is the policy of Tri-Valley Regional Occupational Program to prohibit discrimination or harassment in any program or activity on the basis of age, sex, race, religion, ancestry, national origin, marital status, physical handicap or disability.

No restrictions, other than those created by local, state or federal laws, shall be imposed.

Legal Reference:

Government Code 12900, et seq. Section 504 of the Rehabilitation Act of 1973; P. L. 93-112

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

Students

**Attendance**

Attendance of students in the ROP shall be maintained until they have completed a course. If any student, while in attendance in an ROP course, graduates from his/her regular high school, he/she may remain in the course until completion.

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

Students

### **Attendance**

Tri-Valley Regional Occupational Program Governing Board desires to insure compliance with the attendance and education laws of the State of California and to protect the health of it's students.

Tri-Valley Regional Occupational Program students are expected to attend school regularly and punctually. School officials will employ every reasonable means to insure this attendance and to secure proper verification when absences occur.

School officials will maintain a close working relationship with the home. Parents will be informed of problems as soon as feasible, and every effort will be extended to secure parental understanding and support for attendance regulations. Rules and regulations shall be clearly communicated to parents and students.

The Superintendent or his/her designee may require reasonable verification of a students absence, allegedly due to illness, in cases where such authority determines that a students absence has been excessive, habitual or recurring, or where it has been unusual.

#### Legal Reference:

##### Education Code

- 46010-46015 Absences
- 48205 Absence for justifiable personal reasons
- 48206-48273 Truants
- 48292 Filing complaint against parents
- 48320-48324 SARB
- 48340 Improvement of pupil attendance
- 49067 (b) Unexcused absences as cause for failing grade

#### California Administrative Code, Title V

- 306 Explanation of absence
- 420 Record of verification of absences

**Regulation**  
**Approved:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**  
**Livermore, CA**

Students

**Attendance Records**

The Director of Operations and Services will be responsible for maintaining a system of attendance accounting for all students in the ROP, which will serve as a basis for attendance apportionment.

Legal Reference:

Education Code

52324-52326 Computation in Regional Occupational Centers and Programs

California Administrative Code, Title V

400 Attendance Records

401 Forms and procedures for recording attendance

402 Attendance that may be counted

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

### **Suspension and Exclusion**

The Superintendent or his/her designate will have the power to suspend or recommend for exclusion any student from the ROP whenever, in his judgment, the best interests of the ROP demand such action.

Students must:

- a. follow local, state, and federal laws while at school;
- b. follow all school rules;
- c. follow all classroom rules; and
- d. respect the property and personal rights of others.

Legal References:

Education Code

35291 Notice of Discipline Rules

48900-48925 Suspension, Expulsion

52324-52326 Computation in Regional Occupational Centers and Programs

California Administrative Code, Title V

300 Duties of Pupils

302 Pupils neat and clean entering school

353 Detention

400 Attendance Records

401 Forms and procedures for recording attendance

402 Attendance that may be counted

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

**SUSPENSION AND EXCLUSION****Suspension**

Generally, suspension is to be used for severe offenses or after other corrective measures have failed.

Suspension is considered a means of pointing out to the parents and the student the seriousness of the student's behavior and of securing the cooperation of the parents in dealing with the problems.

The Superintendent, or his/her designee, will contact the appropriate home school administrator and inform them of the suspension. The administration within each school, in conjunction with the ROP administrator, will determine the length of each suspension by taking into consideration the nature of the offense committed and the attitude and previous record of the student involved.

The student under suspension will remain away from the grounds of any school and he/she will not be allowed to participate in school-sponsored activities. It shall be recommended, too, that the student be under adult supervision.

Administrators may suspend within the framework of Education Code Section 48900.

Teachers may suspend as provided in Education Code Section 48910.

The Superintendent, or his designee, may suspend as provided in Education Code Section 48903.

**Exclusion**

Cases of students having filthy or vicious habits or students suffering from contagious or infectious diseases will be referred to the Superintendent. The Superintendent will immediately inform the appropriate home school administrator.

Cases of students having physical or mental disabilities that cause his/her attendance to be inimical to the welfare of other students, will be referred to the Superintendent. The Superintendent will immediately inform the appropriate home school administrator.

When the Superintendent and the home school administrator concur, the Superintendent will present the recommendation for exclusion to the Governing Board for consideration.



Students

**AR 5115 (b)**

## **SUSPENSION AND EXCLUSION**

### **Reinstatement**

Reinstatement will be by action of the Governing Board upon recommendation of the Superintendent.

### **Student Due Process**

Students have the right to due process of law, and all staff members are expected to accord due process rights to all students.

Legal References (next page)

Legal References:

Education Code	48900-48981
	48211
	48212
	48213
	49403
	49451
	49423

Health and Safety Code	3118
------------------------	------

**Regulation**  
**Approved:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**  
**Livermore, CA**

**PROGRESS**

If a student's lack of progress is likely to lead to a denial of certificate of completion or a quarter grade of F, a progress report will be issued with sufficient time for the student to make improvements which will allow him/her to pass.

**Examinations**

During the course of the school year, periodic examinations will be given to determine progress of the students

**Credits Awarded to Students**

Students can receive credit for both years of an approved two-year program. Credits will be awarded credit by the student's home school. Students may repeat a one-year ROP program without receiving credit with one exception. A student may receive credit for repeating a one-year ROP program, it is so indicated in an Individualized Educational Plan (IEP).

Legal Reference:

Education Code Article 5, Section 2, part D, Credits

**Examinations**

Examinations will be modified to be appropriate to the particular class situation of the individual teacher. The nature of the examination will be consistent with the type of the class and the nature of the material to be tested. Types of examinations may include: functional demonstrations, written questions, oral questions or adaptations of these and other testing methods.

**Student Records: Confidentiality**

Maintenance and administration of all student records will be in accordance with the "Privacy Rights of Parents and Students Act of 1974", and section 49063 of the California Education Code.

**Student Records: Confidentiality**

The Governing Board supports the need for and usefulness of keeping records for each student which could reflect the physical, emotional, social and academic aspects of a student's development in the training process.

Information about a student demands judicious use and will always be used so as to contribute to the student's welfare. Safeguards will be established by the ROP administration to protect the student and the student's family from invasion of privacy in the collection, maintenance, and dissemination of information, and to provide accessibility to recorded information by those legally entitled to review a student's records.

Legal Reference:

Education Code

49060-49078 Pupil records

**Regulation  
Approved:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

**Conduct**

ROP curriculum is designed to allow students to achieve success in their chosen careers. Success in a career not only pertains to the mastery of occupationally specific skills but also to the demonstration of employability skills.



**Conduct**

It is expected that all students enrolled in the ROP will relate in a positive manner to teachers, participating employers, co-workers and the public served.

Positive manner means:

1. Adhering to the rules and regulations set forth by the Board.
2. Abiding by local, state and federal laws.
3. Demonstrating interpersonal behavior standards that show respect and cooperation towards the teacher and other students.

**Regulation  
Approved:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

**Drugs and Alcohol**

The Governing Board recognizes that drug or alcohol use, abuse, or dependency can interfere with student behavior, learning, and development.

A student involved in the possession, sale, and/or use of behavior-affecting substances, and drug paraphernalia will be subject to disciplinary procedures which may result in suspension or expulsion from the ROP course.

## Legal Reference:

## Education Code

48900	Suspension or expulsion (grounds)
48900.5	Suspension, limitation or imposition; exception
48909	Narcotics or other hallucinogenic drugs
49480	Notice to school by parent or guardian; consultation with physician

## Health and Safety Code

11357	Marijuana possession fines and punishment; one ounce distinction
11361.5	Records of arrest or conviction; timely destruction of; hearings to order; methods of destruction; official consequences of marijuana arrests to terminate with records thereof

**Policy**  
**Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**  
**Livermore, CA**

**Organizations**

The Board will recognize and encourage the formation of student organizations established and operated according to the provisions of the Education Code. Such student organizations and their accompanying activity programs are considered vital to the educational program; however, student activities will be organized and planned to supplement, not supplant classroom activities.

**Management of Funds**

The management of funds accumulated and expended by student organizations will be the responsibility of the Director of Operations and Services through delegated representatives. Accounting procedures will be maintained on all such funds.

**Class Gifts to Schools**

Expenditures of funds by student organizations for the purpose of presenting a gift to the ROP is deemed a proper expenditure by the Board, and becomes a property of the ROP.

**Smoking Policy**

Any course conducted by the Tri-Valley Regional Occupational Program will adhere to Section 48900 & 48901 of the California State Education Code and not permit smoking or the use of tobacco or any product containing tobacco or nicotine products, by students enrolled in the course when students are on a high school campus, or while they are participating in a ROP sponsored activity.

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**

**Physical Examination**

The Superintendent has the authority to request a student to submit to an examination by a licensed physician when, in the opinion of the Superintendent, continued participation in the ROP course could become injurious to the student. The request for a physical examination does not obligate the ROP for payment of such an examination.

Upon receipt of a doctor's release, the student may return to class.

Students

**Student Discipline and Due Process**

Due process for students will be established to provide a systematic and consistent procedure for students to voice complaints and seek redress.

**Policy  
Adopted:**

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM  
Livermore, CA**



**Student Discipline and Due Process**

Discipline and due process procedures for students shall be governed solely by this policy.

A student at the Tri-Valley ROP may be denied the right to attend the Tri-Valley ROP for a specific number of days or indefinitely for offenses which constitute grounds for suspension and/or expulsion of students enrolled in K-12 grades and adults, and which are enumerated in Education Code Section 48900 et seq.

Any adult student whose willful misconduct results in injury or death to any other student or any person employed by the Tri-Valley ROP, or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to the Tri-Valley ROP, or personal property of any employee, shall be liable for all damages.

A Tri-Valley ROP may require any student in the instructor's class to leave the classroom and not to return for two schooldays for any of the acts enumerated in Education Code Section 4890 et. Seq. A school day means a day which a Tri-Valley ROP class is in session. Prior to imposing this requirement, the instructor shall invite the student to meet informally with him/her and present the student's version and/or evidence in the student's defense. The teacher shall also immediately report the disciplinary action to the Director of Operations & Services and refer the student to the Director or his/her designee for further appropriate action.

A student who was ordered to leave one class and not to return shall not be placed in another class during the period of the disciplinary action or until a decision regarding further appropriate disciplinary action is rendered in writing by the Director or Operations & Services or his/her designee.

As soon as possible, but no later than three schooldays before the conference date, the Director or his/her designee shall notify the student in writing of his/her opportunity to attend a conference regarding the disciplinary action by the instructor and any further appropriate disciplinary action being considered by the Director or designee. Such notice shall (1) be in writing, (2) inform the student that the conference will occur whether the student attends or not, and (3) contain a brief summary of the facts relative to the action.

The conference shall be conducted by the Director or his/her designee. The student and, whenever practicable, the instructor, or administrator who referred the student to the Director or his/her designee shall be permitted to attend. At the conference, the student shall be informed of the reason for the disciplinary action (s) being considered and the evidence against him or her. The student shall be given the opportunity to present his or her version of the facts and reasonable evidence in his or her defense.

**Student Discipline and Due Process**

Notice of the Director's or designee's decision regarding the disciplinary action (s) shall be provided to the student in writing within five schooldays of the date of the conference. Such notice shall specify the extent of time that the student is to be denied the right to attend the Tri-Valley ROP and set a date, not later than the last day of the semester following the semester in which the disciplinary action occurred, when the student may apply for readmission to the Tri-Valley ROP.

The Director, or his/her designee may deny a student the right to attend the Tri-Valley ROP without affording the student an opportunity for a conference only if the Director, or his/her designee determines that an emergency situation exists. Emergency situation means a situation determined by the Director, or his/her designee to constitute a clear and present danger to the life, safety, or health of students or ROP personnel. Thereafter, a conference shall be held within ten schooldays, unless the student waives this right or is physically unable to attend for any reason. The conference shall be held as soon as the student is physically able to return to the Tri-Valley ROP for the conference.

The student may appeal in writing the decision of the Director or designee to the office of the Superintendent within fifteen schooldays from the date the Notice referenced above in paragraph 8 is sent by the Director or designee. The written notice of appeal shall state the grounds for the appeal and include submission of the evidence supporting the student's position.

The Superintendent shall review the notice of appeal and supporting evidence submitted therewith, as well as any response from the Director and any supporting evidence submitted therewith. Within fifteen schooldays, the Superintendent shall render a decision to affirm, modify or reject the decision of the

Director/designee. Such decision shall be in writing and provided to the interested parties. The Superintendent's decision is final.

At the expiration of the time set forth in the Director's or designee's decision to deny the student the right to attend, a student may request readmission to the Tri-Valley ROP, by writing a letter to the Director of Operations & Services requesting readmission. The letter shall state the reasons why the student believes he or she should be readmitted, and the information as to what the student has done to rehabilitate himself or herself. The Director or his/her designee shall meet with the student to determine whether the student should be readmitted. Within ten schooldays from the date of the meeting, the Director shall notify the student in writing whether he or she will be readmitted.

**Student**

AR 5139(c)

**Student Discipline and Due Process**

The Director's decision to deny readmission may be appealed to the Superintendent in writing by the student within ten schooldays from the receipt of the denial letter from the Director. Within ten schooldays from the receipt of the appeal letter, the Superintendent shall notify the student in writing whether or not her or she will be readmitted. The Superintendent's decision shall be final.

**Regulation**

**Approved:**

**Revised:** September 28, 1995

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

**Livermore, CA**

Students

## **Child Abuse Prevention and Reporting**

### **Child Abuse Prevention**

The Governing Board recognizes the district's responsibility to educate students about the dangers of child abuse so that they will acquire the skills and techniques needed to identify unsafe situations and to react appropriately and promptly.

The Superintendent or designee shall seek to incorporate community resources into the district's child abuse prevention programs. To the extent feasible, the Superintendent or designee shall use these community resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

### **Child Abuse Reporting**

The Board recognizes that child abuse has severe consequences and that the district has a responsibility to protect students by facilitating the prompt reporting of known and suspected incidents of child abuse. The Superintendent or designee shall establish procedures for the identification and reporting of such incidents in accordance with law.

Employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect. Mandated reporters shall not investigate any suspected incidents but rather shall cooperate with agencies responsible for investigating and prosecuting cases of child abuse and neglect.

The Superintendent or designee shall provide training regarding the reporting duties of mandated reporters.

In the event that training is not provided to mandated reporters, the Superintendent or designee shall report to the California Department of Education the reasons that such training is not provided. (Penal Code 11165.7)

Legal Reference: (next page)

Students

## **Child Abuse Prevention and Reporting**

Legal References:

### EDUCATION CODE

32280-32288 Comprehensive school safety plans  
33308.1 Guidelines on procedure for filing child abuse complaints  
44690-44691 Staff development in the detection of child abuse and neglect  
44807 Duty concerning conduct of students  
48906 Notification when student released to peace officer  
48987 Dissemination of reporting guidelines to parents  
49001 Prohibition of corporal punishment  
51220.5 Parenting skills education

### PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act  
273a Willful cruelty or unjustifiable punishment of child; endangering life or health  
288 Definition of lewd or lascivious act requiring reporting  
11164-11174.4 Child Abuse and Neglect Reporting Act

### WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

### CODE OF REGULATIONS, TITLE 5

4650 Filing complaints with CDE, special education students

Management Resources:

### CDE LEGAL ADVISORIES

0514.93 Guidelines for parents to report suspected child abuse

### WEB SITES

California Attorney General's Office, Crime and Violence Prevention Center:

<http://safestate.org>

California Department of Education, Safe Schools: <http://www.cde.ca.gov/lr/ss>

California Department of Social Services, Children and Family Services Division:

<http://www.childsworld.ca.gov>

U.S. Department of Health and Human Services, National Clearinghouse on Child Abuse and Neglect Information: <http://nccanch.acf.hhs.gov>

**Policy**

**Adopted:** September 14, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

**Livermore, CA**

Students

### **Child Abuse Prevention and Reporting**

Definitions

Child abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child by another person
2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child as defined in Penal Code 11165.2
4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

Child abuse or neglect does not include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)
3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)
4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, to protect himself/herself, or to obtain weapons or other dangerous objects within the control of the student (Education Code 49001)
5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code 49001)

Students

### **Child Abuse Prevention and Reporting**

Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; administrators and employees of a licensed day care facility; Head Start teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse or neglect. However, reasonable suspicion does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. (Penal Code 11166)

### **Reportable Offenses**

A mandated reporter shall make a report using the procedures provided below whenever, in his/her professional capacity or within the scope of his/her employment, he/she has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11166.05, 11167)

Any district employee who reasonably believes that he/she has observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

### **Responsibility for Reporting**

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

Students

### **Child Abuse Prevention and Reporting**

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

#### Reporting Procedures

##### 1. Initial Telephone Report

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11165.9, 11166)

**Alameda County Child Protective Services  
24-hour hotline to report abuse/neglect:  
(510) 259-1800**

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

##### 2. Written Report

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall then prepare and either send, fax, or electronically submit to the appropriate agency a written follow-up report, which includes a completed Department of Justice form (SS 8572). (Penal Code 11166, 11168)



Students

### **Child Abuse Prevention and Reporting**

The Department of Justice form may be obtained from the district office or other appropriate agencies, such as the county probation or welfare department or the police or sheriff's department.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location, and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The name, address, telephone number, and other relevant personal information about the person who might have abused or neglected the child
- e. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code 11166.05. (Penal Code 11167)

### **3. Internal Reporting**

The mandated reporter shall not be required to disclose his/her identity to his/her supervisor, the principal, or the Superintendent or designee. (Penal Code 11166)

However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify their immediate supervisor as soon as possible after the initial telephone report to the appropriate agency. When so notified, the supervisor shall inform the Superintendent or designee.

Students

### **Child Abuse Prevention and Reporting**

The supervisor so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the supervisor may assist in completing and filing the necessary forms.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

### **Victim Interviews by Social Services**

Whenever a representative from the Department of Social Services or another government agency investigating suspected child abuse or neglect deems it necessary, a suspected victim may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be given the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the child. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform him/her of the following requirements: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable him/her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

Students

## **Child Abuse Prevention and Reporting**

### **Release of Child to Peace Officer**

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

### **Parent/Guardian Complaints**

Upon request, the Superintendent or designee shall provide parents/guardians with a copy of this administrative regulation which contains procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 4650.

### **Notifications**

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Students

**Child Abuse Prevention and Reporting**

Before beginning employment, any person who will be a mandated reporter by virtue of his/her position shall sign a statement indicating that he/she has knowledge of the reporting obligations under Penal Code 11166 and will comply with those provisions. The signed statement shall be retained by the Superintendent or designee. (Penal Code 11166.5)

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

**Sexual Harassment**

The Governing Board is committed to maintaining an educational environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students by other students, employees, or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

**Instruction/Information**

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

**Complaint Process**

Any student who feels that he/she is being or has been sexually harassed by a school employee, another student, or a non-employee on school grounds or at a school-related activity (e.g., a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

## **Sexual Harassment**

### **Disciplinary Actions**

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action which may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5131 - Conduct)

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

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

### **Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

*Legal References* (next page)

## **Sexual Harassment**

### Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

#### CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

#### GOVERNMENT CODE

12950.1 Sexual harassment training

#### CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

#### UNITED STATES CODE, TITLE 20

1681-1688 Title IX, discrimination

#### UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 Nondiscrimination on the basis of sex in education programs

#### COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736

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

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

#### Management Resources:

#### OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance, January 2001

#### WEB SITES

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

## **Policy**

## **TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

**Adopted:** June 10, 1999

**Livermore, CA**

**Revised:** September 14, 2011

**Sexual Harassment**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way



**Sexual Harassment**

9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects

**School-Level Complaint Process/Grievance Procedure**

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the district Coordinator for Nondiscrimination/Principal. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/Principal, whether or not the victim files a complaint.

In any case of sexual harassment involving the Coordinator/Principal to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

If the alleged sexual harassment occurred at an ROP student's job site by an individual who is not employed by nor a student in the ROP, the ROP Superintendent or designee shall assist the student in submitting his/her complaint to the appropriate person or department within the student's employer for investigation by the student's employer.

2. **Initiation of Investigation:** The Coordinator/Principal shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the Coordinator/Principal receives an anonymous complaint or media report about alleged sexual harassment, he/she shall consider the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment in determining whether it is reasonable to pursue an investigation.

**Sexual Harassment**

3. **Initial Interview with Student:** When a student or parent/guardian has complained or provided information about sexual harassment, the Coordinator/Principal shall describe the district's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the district's ability to investigate.
4. **Investigation Process:** The Coordinator/Principal shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Coordinator/Principal shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Coordinator/Principal may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Coordinator/Principal also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

5. **Interim Measures:** The Coordinator/Principal shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. **Optional Mediation:** In cases of student-to-student harassment, when the student who complained and the alleged harasser so agree, the Coordinator/Principal may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

**Sexual Harassment**

7. **Factors in Reaching a Determination:** In reaching a decision about the complaint, the Coordinator/Principal may take into account:
  - a. Statements made by the persons identified above
  - b. The details and consistency of each person's account
  - c. Evidence of how the complaining student reacted to the incident
  - d. Evidence of any past instances of harassment by the alleged harasser
  - e. Evidence of any past harassment complaints that were found to be untrue
8. **To judge the severity of the harassment, the Coordinator/Principal may take into consideration:**
  - a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
  - d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different students
8. **Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the Coordinator/Principal shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator/Principal shall notify the student who complained and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If sexual harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.

**Sexual Harassment**

In addition, the Coordinator/Principal shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Coordinator/Principal shall also make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

**Enforcement of District Policy**

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti
2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond
3. Disseminating and/or summarizing the district's policy and regulation regarding sexual harassment
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community
5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

**Notifications**

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)

**Sexual Harassment**

4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
5. Be included in the student handbook
6. Be provided to employees and employee organizations