**SAMPLE AR 5141.X**

[Note: The Administrative Regulation (AR) number above mirrors its associated Board Policy (BP) number. The BP number is a number chosen by the California School Boards Association (CSBA). . The indicated number is merely representative based on the number selected by some District. In addition, the AR and BP numbers in the footnotes below are merely representative and must be matched with your District selections.]

**Child Abuse and neglect Prevention and Reporting**

**POLICY STATEMENT**

The District will not tolerate and will seek to eradicate any behavior which constitutes child abuse and neglect.

(Penal Code 11165.1) (Penal Code 11165.2) (Penal Code 11165.3) (Penal Code 11165.4) (Penal Code 11165.5) (Penal Code 11165.6) Education Code 44807) (Education Code 49001) (cf. AR 3515.3 - District Police/Security Department) (cf. AR 5144 - Discipline) (cf. AR 5141 –Child Abuse Prevention and Reporting)

*Child abuse and neglect* **includes** (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, or (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, (2) an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment, (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, (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, or physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student.

(Education Code 44807) (Education Code 49001) (Penal Code 11165.1) (Penal Code 11165.2) (Penal Code 11165.3) (Penal Code 11165.4) (Penal Code 11165.6) (cf. 3515.3 - District Police/Security Department) (cf. 5144 - Discipline)

**PREVENTION PROCEDURES**

**General principles for screening employment applicants and employees**

Screening employment applicants and employees for child sexual abuse prevention purposes shall be an integral part of the District hiring and screening process.

District screening will (1) be based on criteria that define the purpose of information that is collected and used to determine an applicant’s suitability, (2) identify who will make the final applicant selection, (3) define areas of concern such as a fixation on a particular age or gender of youth or a history of crimes related to sex or violence, (4) develop consistent and systematic policies and processes for screening and selection, including a sequence and timeline for the various components of the process, and (5) consult with the District’s legal counsel to ensure that the District’s policies are in compliance with Title VII of the Civil Rights Act and other federal or state laws.

Screening shall be conducted on all applicants for all positions that will have contact with minors. Screening may be more in-depth for first-time job applicants and for those whose positions that will have more autonomy. The District will not make exceptions for applicants previously known to the District, relatives or friends of current or past employees, or people who have worked for the District previously.

**Preliminary screening components**

Preliminary screening will include:

1. Informing applicants about the District’s policies and procedures relevant to child abuse prevention.
2. Sharing the District’s code of conduct or ethics.
3. Requiring applicants to sign a document describing the policies and procedures of the District which demonstrates their understanding and agreement.
4. Asking applicants if they have questions about any of the policies and procedures.

**Written employment application**

The written application will collect information needed to assess the background and interests of applicants. These questions should help determine whether applicants have mature, adult relationships as well as clear boundaries and ethical standards with respect to their conduct with youth.

**Personal interview**

A personal interview will provide an opportunity to meet applicants, determine if they are a good fit for the District, and ask additional questions to screen for child sexual abuse risk factors.

**Criminal background checks**

Criminal background checks will provide a tool in screening and selection. However, they have limitations.

1. Delay criminal background checks until the end of the screening and selection process. Applicants who do not make it through the written applications, personal interviews, and reference checks will not need a criminal background check.
2. Obtain written permission from applicants before beginning a criminal background check.
3. Determine the type and level of check required for each applicant. Types of checks include name, fingerprint, sex offender registries, and social security number. Checks may be implemented at county, state, and national levels. Records are not always linked or comprehensive, so a thorough search may be needed to address concerns about an applicant. For example, if an applicant has moved frequently, checks in multiple states will be necessary.
4. Arrest data are not grounds for disqualification; only offenses resulting in convictions may be used A record of violent behavior or child sexual abuse perpetration history are absolute disqualifiers. Drug and driving offenses are also likely disqualifiers.
5. Criminal background checks are confidential. Procedures for secure storage of records with limited access will be developed and implemented.

**Maintaining internal records**

The District shall keep an internal database of candidates who are disqualified during the screening process and employees who are dismissed because of an offense. As part of the screening and selection process, the District will check current applicants against this list to make sure the applicant has not been previously disqualified or dismissed.

**Internet search findings**

An internet search may find additional, relevant applicant information. Be aware that more than one person can share the same name and that it may be difficult to verify the accuracy of information found on the internet. As such, internet search findings should normally be used only as input for open-ended candidate questions.

**On-going screening of teachers and staff**

The District will continue to screen employees on an on-going basis. Such screening includes protocols responsive to child abuse prevention, shall be done only with the permission of the employee and/or his or her collective bargaining unit or as is otherwise allowed by law, and may result in discipline or termination as allowed by law.

**General principles for screening volunteers and other third parties/contractors**

The District shall screen volunteers, contractors, and third parties based on their duties, responsibilities, and interactions with minors. Volunteer participation is classified into two categories, Category 1-one time volunteers and Category 2-long term volunteers. For each category, the processes defined below must be completed on an annual basis prior to allowing any individual to volunteer.

**Category 1 volunteers**

Category 1 volunteers are parents or other visitors or guests who enter a school for a one-time event. These persons have no unsupervised exposure or contact with children. Typical examples include guest readers, guest speakers, one-time volunteers for school or classroom events, or other day or guest-type activities. Parents who attend school to eat lunch or to participate in a parent involvement activity with their child(ren) are also considered visitors or guests.

For Category 1 volunteers, the following screening requirements apply:

1. Be sponsored or approved by a District employee.
2. Be able to present some form of current, government-issued photo identification (driver’s license, passport, military ID, U.S. or other government identification). [By recommendation from the Department of Justice, Mexico identification and voter registration cards are not recognized. U.S. social security cards and birth certificates without an accompanying U.S. driver’s license are also not recognized].
3. Sign in on the district approved Volunteer Sign-in Sheet, which includes a criminal disclosure, in the main office.
4. Upon approval, be required to display a volunteer identification badge to be surrendered at the conclusion of the day’s volunteer activity.

**Category 2 volunteers**

Category 2 volunteers are most other volunteers, including volunteers with group exposure who have no direct unsupervised exposure or contact with children, volunteers participating in school activities in open and public settings, and volunteers with classroom exposure who work with children and are supervised by District staff. For Category 2 volunteers, volunteer conditions are typically public settings and classrooms where staff or other adults can observe at all times, there is no solitary time with children, and there is always an unobstructed view of interactions with children. Typical examples include classroom tutoring, classroom reading, classroom assistance, and after-school programs, including, but not limited to, mentoring activities and athletic practices and events, where supervised by District personnel, field trip chaperones , and non-classroom volunteers such as office helpers, non-classroom assistance, and organized functions associated with school organizations such as the PTA.

For Category 2 volunteers, the following screening requirements apply:

1. Be sponsored or approved by a school site or district employee.
2. Be able to present some form of current, government-issued photo identification (driver’s license, passport, military ID, U.S. or other government identification). [By recommendation from the Department of Justice, Mexico identification and voter registration cards are not recognized. U.S. social security cards and birth certificates without an accompanying U.S. driver’s license are also not recognized.]
3. Complete and submit for approval the district School Volunteer Application.
4. New volunteers submit their fingerprints to both State and National databases.
5. Be checked by designated site personnel against the California Department of Justice, Sexual Offender (Megan’s Law) website.
6. Present a Tuberculosis clearance card.
7. Sign the Volunteer Code of Conduct Form.
8. Sign in on the district approved Volunteer Sign-in Sheet, which includes a criminal disclosure (in the main office.
9. Upon approval, be required to display a volunteer identification badge to be surrendered at the conclusion of the day’s volunteer activity.

**Third party/contractor policy**

During school hours, the District shall provide limited access to contractors, consultants and other third parties unrelated to any student and/or not serving in a capacity otherwise covered under Category 1 and Category 2 above. In the event such parties must access District sites to perform their scope of services, the following shall apply:

1. The contractor or consultant must certify and a District employee must verify that the proposed service or services must be performed during school hours.
2. District approval of the work must be documented in an agreement, contract or other written document.
3. The contractor or consultant must be able to present some form of current government-issued photo identification (driver’s license, passport, military ID, US or other government identification). [By recommendation from the Department of Justice, Mexico identification and voter registration cards are not recognized. U.S. social security cards and birth certificates without an accompanying U.S. driver’s license are also not recognized.]
4. The contractor or consultant must sign in on the district approved Contractor Sign-in Sheet in the main office, which includes a criminal disclosure.
5. Upon approval, the contractor or consultant should be required to display a contractor identification badge with an ID photo at all times while on campus or at the facility.
6. The contractor’s or consultant’s activities must be restricted to the zone designated for contractor activities and physically separated from school activities by fencing or other approved barrier.

**Proper interaction with minors**

The District expects that all employees and school-site participants interact with minors in a safe and proper manner, including:

1. Eliminating the times employees and other school-site participants are alone with minors without other adults being present, accessible, or in view. There shall be respect for privacy, prompt reporting of problems at all times with respect to interaction among adults and minors, and no, inappropriate one-to-one contact between adults and minors.
2. Physical contact between employees or other school-site participants and minors shall always be (a) non-sexual, (b) appropriate to the circumstance, and (c) unambiguous in meaning. Boundaries consistent with employees’ and other school-site participants’ roles as educators, mentors, and caregivers shall always be respected. Violations of boundaries include:
   1. Intentional contact that constitutes physical or sexual abuse or is otherwise potentially harmful to the well-being of a minor.
   2. Physical contact with a minor that is not age-appropriate or within the scope of the employee’s and other school-site participant’s scope of responsibilities or duties.
   3. Touching or grabbing a student to get his or her attention.
   4. Physical contact that demonstrates an intention to discriminate between students or otherwise show favoritism.
   5. Touching for the purpose of punishing or intimidation. Specifically, this does not include manual interventions necessary to protect the safety of the student or others.
   6. Any gestures or movements that imply physical or sexual contact.
3. Never being with a minor in a concealed area, including a locked room or a place where other adults cannot see or hear the adult’s interaction with a minor or minors;
4. Never hosting an event for minors or inviting minors to employee’s and other school-site participant’s homes unless such hosting or invitation is part of an approved District function;
5. Never inviting minors, *[not of family relations]* to employees’ and other school-site participant’s home without the presence of the minor’s guardians, parents, or multiple adults as part of an approved District function;
6. Never entering a home with a minor, *[not of family relations*] unless the minor’s guardians or parents are present and/or without the guardian’s or parent’s consent;
7. Never giving a minor a gift without the consent of District and the guardians or parents of the minor;
8. Never providing tobacco products, drugs, or alcohol to minors or purchasing tobacco products, drugs, or alcohol for minors;
9. Always reporting use of tobacco products, alcohol, or illegal drugs by minors;
10. Never going to an off school-site event with a minor without receiving the written consent of the minor’s guardians or parents and District;
11. Never providing transportation to a minor or minors without approval of District and consent of the minor’s guardians or parents and without other adults being present;
12. Never taking video or audio recordings, photographs, or otherwise capturing digital images of a minor without receiving the written consent of the minor’s guardians or parents and District; and
13. Never communicating to a minor on matters unrelated to performance of your duties as a teacher or other education professional; in an unprofessional manner; or inappropriately via phone, letter, instant messaging, social media, email or in a chat room.

**Training**

**Mandated Reporter Training**

Mandated reporters are required to complete the Educators Specific Child Abuse Mandated Reporter Training or an equivalent module within six weeks of hire and annually. Such training must be completed within the first six weeks of each school year and annually thereafter.

Each mandated reporter shall also read and confirm the District’s Annual Employee Acknowledgement Form and Suspected Child Abuse Reporting Acknowledgement Form by signing and dating copies of each form that shall be kept within each mandated reporter employee’s personnel file.

Additionally, the District shall include as part of the above training the proper interaction with minors and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child abuse and neglect.

**CHILD ABUSE AND NEGLECT REPORTING PROCEDURE**

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) (Penal Code 11167)

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)

1. Initial Telephone Report

Immediately or as soon as practicable after observing or reasonably suspecting child abuse, neglect, or exploitation, a mandated reporter shall make an initial report by telephone to any police department (excluding 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) (Penal Code 11166)

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) (Penal Code 11168)

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:

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

(Penal Code 11167)

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, neglect, or exploitation 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, neglect, or exploitation to an appropriate agency are encouraged, but not required, to notify their principal/ supervisor as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal/ supervisor shall inform the Superintendent or designee.

The principal/ 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 principal 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)

(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, neglect, or exploitation deems it necessary, a suspected victim may be interviewed during school hours, on school premises, concerning a report of suspected child abuse, neglect, or exploitation 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 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:

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.

(Penal Code 11174.3)

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)

**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, neglect, or exploitation, 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. 145.11 - Questioning and Apprehension by Law Enforcement)

**Parent/Guardian Complaints**

Upon request, the Superintendent or designee shall provide parents/guardians with a copy of the administrative regulation which contains procedures for reporting suspected child abuse, neglect, or exploitation 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, neglect, or exploitation 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.

(cf. 1312.1 - Complaints Concerning District Employees)

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.

(cf. 1312.3 - Uniform Complaint Procedures)

**Discipline**

Any District employee, volunteer, or contractor who is determined, after an investigation, to have engaged in any activity in violation of this policy, including, but not limited to a failure to report known or reasonably suspected child abuse and neglect, will be subject to disciplinary action up to and including discharge.

False accusations regarding child abuse and neglect will not be tolerated, and any person knowingly making a false accusation will likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The District will discipline any individual who retaliates against any person who reports suspected child abuse and neglect or who retaliates against any person who testifies assists or participates in an investigation, a proceeding or a hearing relating to a child abuse and neglect complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

**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)

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)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee also shall notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse, neglect, or exploitation shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse, neglect, or exploitation outside of his/her professional capacity or outside the scope of his/her employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report.

(Penal Code 11172)

1. If a mandated reporter fails to report an incident of known or reasonably suspected child abuse or neglect, he/she may be guilty of a crime punishable by a fine and/or imprisonment.

(Penal Code 11166)

1. No employee shall be subject to any sanction by the District for making a bona fide report.

(Penal Code 11166)

**MAINTENANCE OF RECORDS AND DOCUMENTS**

The District shall maintain all records and documentation required by law or otherwise required by this and other related policies including all documents related to procedures for hiring/volunteer/contractor screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up, and disciplinary action.

Regulation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DISTRICT approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_