

Santa Cruz County Board of Education • 400 Encinal Street, Santa Cruz, CA 95060 • Tel (831) 466-5900 • www.santacruzcoe.org Mr. Ed Acosta • Ms. Rose Filicetti • Ms. Sandra Nichols • Ms. Sue Roth Mr. Abel Sanchez • Mr. Bruce Van Allen • Ms. Alyssa Wall

### Santa Cruz County Board of Education Regular Board Meeting Thursday July 15, 2021 Open Session 4:00PM Held by Videoconference Only

### NOTICE:

In order to meet the most recent guidelines from the Santa Cruz County Health Services Agency in regard to COVID-19, this meeting will be **limited to virtual participation only** and made available online via a live video-conference at the following web address:

### https://santacruzcoe-org.zoom.us/j/81067361811

Or join by phone: Phone Number: **#1 (669) 900-6833** Meeting ID:**# 810 6736 1811** 

### PUBLIC COMMENT:

Any person wishing to make a public comment will have the opportunity to do so via videoconference during the virtual meeting for up to three minutes each for any item not listed on the agenda, or for up to two minutes for any item listed on the agenda. To submit a comment to be read aloud on your behalf either listed or not listed on the meeting agenda, please send a comment no longer than 300 words to <u>vvalentin@santacruzcoe.org</u> no later than 2:00PM on July 15th. Each individual may only make one comment per topic.

Cualquier persona que desee hacer un comentario público tendrá la oportunidad de hacerlo por videoconferencia durante la reunión virtual hasta tres minutos cada uno para cualquier tema que no esté incluido en la agenda, y hasta dos minutos para cualquier tema incluido en la agenda. Para enviar un comentario para ser leído en voz alta en su nombre, ya sea para un tema en la agenda o no en la agenda, envíe un comentario de no más de 300 palabras a <u>vvalentin@santacruzcoe.org</u> a más tardar a las 2:00PM del 15 de julio. Cada individuo solo puede hacer un comentario por tema.

# AGENDA

### 1. CALL TO ORDER, ROLL CALL AND ESTABLISHMENT OF QUORUM

Rose Filicetti (President), Ed Acosta, Sandra Nichols, Sue Roth, Abel Sanchez, Bruce Van Allen, Alyssa Wall Faris Sabbah, Secretary Santa Cruz County Board of Education Agenda, Regular Meeting July 15, 2021

### 2. <u>PLEDGE OF ALLEGIANCE</u>

Superintendent Sabbah (Secretary) will lead the Pledge of Allegiance.

### 3. <u>APPROVAL OF AGENDA</u>

Agenda deletions and/or changes of sequence will be approved or the agenda will be approved as submitted.

### 4. PUBLIC COMMENT

This is an opportunity for the public to address the Board regarding items not on the agenda. The Board President will recognize any member of the audience not previously placed on the agenda who wishes to speak on a matter directly related to school business. Each speaker, on any specific topic, may speak up to **three (3) minutes** unless otherwise limited or extended by the President. The President may allot time to those wishing to speak but no action will be taken on matters presented (EDC § 35145.5). If appropriate, the President, or any Member of the Board, may direct that a matter be referred to the Superintendent's Office for placement on a future agenda. Please refer to item, *Please Note*, on the last item of this agenda.

### 5. <u>CONSENT AGENDA</u>

All items appearing on consent agenda are recommended actions which are considered to be routine in nature and will be acted upon as one motion. Specific items may be removed for separate consideration. Item(s) removed will be considered immediately following the consent agenda motion as Deferred Consent Items.

- 5.0.1 Minutes of the Special Board Meeting held on June 24, 2021
- 5.0.2 Routine June and July Budget Revisions
- 5.0.3 Alternative Education Consolidated Application
- 5.0.4 Surplus Items
- 5.0.5 Donations

#### 5.1 DEFERRED CONSENT ITEMS (if required)

This item is placed on the agenda to address any items that might be pulled from Agenda Item 5.0 for further discussion/consideration if so determined.

### 6. <u>CORRESPONDENCE</u>

Official correspondence received by the Board is included herein.

#### 7. REPORTS, DISCUSSIONS, AND PRESENTATIONS

### 7.1 Inside Education Program Presentation

Inside Education is a program that consists of a series of workshops designed to better acquaint community members with public education in Santa Cruz County. Participants receive an interactive experience, meeting key leaders and visiting school sites. Superintendent Sabbah and Les Forster will provide an update on Inside Education and ways the program has adapted due to the pandemic.

Presenter(s): Dr. Faris Sabbah, County Superintendent of Schools Les Forster, Program Coordinator, Inside Education Santa Cruz County Board of Education Agenda, Regular Meeting July 15, 2021

### 7.2 <u>COVID-19 School Update</u>

Superintendent Sabbah will give a presentation regarding the ways in which the Santa Cruz County Office of Education has been working in collaboration with School Districts and other partners to support students and families during the COVID-19 Pandemic.

Presenter(s): Dr. Faris Sabbah, County Superintendent of Schools

### 8. PUBLIC HEARINGS, NEW BUSINESS, AND ACTION ITEMS

### 8.1 PUBLIC HEARING: Inter-fund Borrowing

The Santa Cruz County Office of Education will conduct a public hearing to discuss the temporary borrowing of cash from one fund to another fund of the COE for payment of obligations. The transfer is accounted for as a temporary borrowing between funds and is not available for budgeting. Amounts that are transferred shall be repaid in the same fiscal year, or within the final 120 calendar days of a fiscal year. No more than 75 percent of the maximum of money held in any fund or account during a current fiscal year may be transferred. The decision on this item will take place immediately following this public hearing.

\_\_\_\_Open, Conduct,

& Close Public Hearing: Abel Sanchez (Vice President)

#### 8.2 <u>Resolution #21-11 In The Matter of Authorizing Inter-Fund Loans for Cash Flow</u> <u>Purposes</u>

The Board will be asked to adopt Resolution #21-11 in the matter of authorizing inter-fund loans for cash flow purposes. The public hearing to consider the level of support for this item will be held immediately preceding this item.

Presenter(s): Liann Reyes, Deputy Superintendent, Business Services

Motion & Roll Call Vote: Abel Sanchez (Vice President)

#### 8.3 First Reading: Board Policies 5000s Series

Modified and new policies may be adopted by the County Board of Education following a first and second reading by the Board. The Board may accept the following proposed policy(ies) as submitted and waive a second reading and move to take action, order changes, or order changes and bring back for a final reading.

The Board Policy Committee recommends adoption of the following board policies with minor edits:

BP 5020 Parent Rights and Responsibilities BP 5022 Student and Family Privacy Rights BP 5030 Student Wellness BP 5111 Admission BP 5113 Absences and Excuses BP 5113.1 Chronic Absence and Truancy BP 5116.2 **Involuntary Student Transfers** BP 5118.1 Interdistrict Transfer Appeals

BP 5121	Grades/Evaluations of Student Achievements
BP 5123	Promotion/Acceleration/Retention
BP 5125	Student Records
BP 5125.1	Release of Directory Information
BP 5126	Awards for Achievement
BP 5131.2	Bullying
BP 5131.6	Alcohol and Other Drugs
BP 5131.62	Торассо
BP 5131.7	Weapons and Dangerous Instruments
BP 5132	Dressing and Grooming
BP 5141.31	Immunizations
BP 5141.4	Child Abuse Prevention and Reporting
BP 5142	Safety
BP 5144.1	Suspension and Expulsion/Due Process
BP 5144.3	Expulsion Appeals
BP 5144.4	Required Parental Attendance
BP 5145.11	Questioning and Apprehension by Law Enforcement
BP 5145.12	Search and Seizure
BP 5145.13	Response to Immigration Enforcement
BP 5145.2	Freedom of Speech/Expression
BP 5145.3	Nondiscrimination/Harassment
BP 5145.7	Sexual Harassment
BP 5148.2	Before/After School Programs

Presenter(s): Trustee Bruce Van Allen, Board Policy Committee, Chair

### Motion &

Roll Call Vote: Abel Sanchez (Vice President)

### 9. <u>SUPERINTENDENT'S REPORT</u>

County Superintendent of Schools, Dr. Faris M. Sabbah, will provide an update on activities and matters of interest

### 10. TRUSTEE REPORTS (3 minutes each)

Trustees will report on matters, events, and activities as related to Board goals of: Advocating for students, maintaining community relations, and promoting student achievement.

### 11. AD HOC COMMITTEE REPORTS/ACTIONS (if any)

#### 12. SCHEDULE OF MEETINGS AND UPCOMING EVENTS

Santa Cruz County Board of Education Regular Meeting (Virtual) August 19, 2021 4:00 p.m. Santa Cruz County Board of Education Agenda, Regular Meeting July 15, 2021

> Santa Cruz County Board of Education Regular Meeting (Virtual) September 16, 2021 4:00 p.m.

Santa Cruz County Office of Education's Environmental Equity Event Virtual Meeting September 28, 2021 6:00 p.m.

### 13. ADJOURNMENT

The Board Vice President will adjourn the meeting.

### PLEASE NOTE:

### Public Participation:

All persons are encouraged to attend and, when appropriate, to participate in meetings of the Santa Cruz County Board of Education. If you wish to speak to an item on the agenda, please be present at the beginning of the meeting as any item, upon motion, may be moved to the beginning of the agenda. Persons wishing to address the Board are asked to state their name for the record. The president of the Board will establish a time limit of three (3) minutes, unless otherwise stated by the president, for comments from the public. Consideration of all matters is conducted in open session except those relating to litigation, personnel and employee negotiations, which, by law, may be considered in closed session. Expulsion appeal hearings are heard in closed session unless a request for hearing in open session is made by the appellant.

### Backup Documentation:

Any writings or documents that are public records and are provided to a majority of the governing board regarding an open session item on this agenda will be made available for public inspection in the County Office of Education, located 400 Encinal Street, Santa Cruz, CA 95060, during normal business hours.

### Translation Requests:

Spanish language translation is available on an as-needed basis. Please make advance arrangements with Verenise Valentin by telephone at (831) 466-5900 Traducciones del inglés al español y del español al inglés están disponibles en las sesiones de la mesa directiva. Por favor haga arreglos por anticipado con Berenice Valentin por teléfono al número (831) 466-5900.

### ADA Compliance:

In compliance with Government Code section 54954.2 (a), The Santa Cruz County Office of Education will, on request, make this agenda available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec 12132), and the federal rules and regulations adopted in implementation thereof. Individuals who need this agenda in an alternative format or who need a disability-related modification or accommodation in

order to participate in the meeting should contact Verenise Valentin, Administrative Aide to the Superintendent, 400 Encinal St., Santa Cruz, CA 95060, (831) 466-5900.



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Meeting Date:	July 15, 2021	x	Action	Information
			1	1

**TO**: Santa Cruz County Board of Education

**FROM**: Dr. Faris Sabbah, County Superintendent of Schools

SUBJECT: Minutes of the Special Board Meeting held on June 24, 2021

## BACKGROUND

June 24, 2021 Minutes of the special meeting of the Santa Cruz County Board of Education.

## SUPERINTENDENT'S RECOMMENDATION:

Approve minutes.

# FISCAL IMPLICATIONS:

None.



Santa Cruz County Board of Education © 400 Encinal Street, Santa Cruz, CA 95060 © Tel (831) 466-5900 © www.santacruzcoe.org Mr. Ed Acosta © Ms. Rose Filicetti © Ms. Sandra Nichols © Ms. Sue Roth Mr. Abel Sanchez © Mr. Bruce Van Allen © Ms. Alyssa Wall

> Santa Cruz County Board of Education Special Board Meeting Thursday June 24, 2021 Open Session 4:00PM Held by Videoconference Only

# **UNAPPROVED MINUTES**

### 1. <u>CALL TO ORDER, ROLL CALL AND ESTABLISHMENT OF QUORUM</u> <u>Trustees Present (via videoconference)</u> Rose Filicetti (President), Ed Acosta, Sandra Nichols, Sue Roth, Abel Sanchez, Bruce Van Allen, Alyssa Wall

### Staff Present (via videoconference)

Faris Sabbah (Secretary), Debi Bodenheimer, Jennifer Izant Gonzales, Rebecca Olker, Denise Sanson, Verenise Valentin

### 2. PLEDGE OF ALLEGIANCE

Superintendent Sabbah (Secretary) led the Pledge of Allegiance.

### 3. <u>APPROVAL OF AGENDA</u>

A motion was made to approve the agenda as presented (Roth/Nichols 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 4. PUBLIC COMMENT

No public comments were made.

#### 5. <u>CONSENT AGENDA</u>

5.0.1 Minutes of the Regular Board Meeting held on June 17, 2021

A motion was made to approve the consent agenda as presented (Nichols/Van Allen 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None

Absent: None

### 5.1 DEFERRED CONSENT ITEMS (if required) None.

### 6. <u>CORRESPONDENCE</u>

Official correspondence received by the Board was included in the Board packet. No new correspondence was received before the meeting.

### 7. REPORTS, DISCUSSIONS, AND PRESENTATIONS

### 7.1 <u>Countywide Plan for Expelled Youth Presentation</u>

Dr. Jennifer Izant Gonzales presented the Countywide plan for Expelled youth. California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of the school districts within the county, to develop a plan for providing educational services to all expelled pupils in that county. The initial plan was adopted by the governing board of each school district within the county. The plan was submitted to the State Superintendent of Public Instruction (SSPI).

Trustee Van Allen, Trustee Roth, and President Filicetti asked clarifying questions regarding the plan.

### 7.2 Local Indicators Presentation for the Santa Cruz County Office of Education

Dr. Jennifer Izant Gonzales gave a presentation to the Board about the ways in which the Santa Cruz County Office of Education is meeting the requirements for the Dashboard Local Indicators.

Trustee Roth asked Dr. Izant Gonzales a clarifying question.

President Filicetti thanked the administrators for their work in meeting the requirements for the Dashboard Local Indicators.

#### 7.3 Local Indicators Presentation for the Career Advancement Charter

Denise Sanson, Senior Director of Student Programs, gave a presentation to the Board on the ways in which the Career Advancement Charter is meeting the requirements for the Dashboard Local Indicators.

Trustee Van Allen, Trustee Sanchez, and Trustee Roth asked clarifying questions.

President Filicetti and Trustee Van Allen thanked Denise Sanson and the Career Advancement Charter Staff for their work in meeting the requirements for the Local Indicators.

#### 7.4 Actuarial Study of Retiree Health Liabilities

Rebecca Olker, Senior Director, Fiscal Services presented a report to the Board on the Actuarial Study of Retiree Health Benefits, which is required every two years in compliance with GASB43/45.

Trustee Van Allen asked a clarifying question.

### 8. PUBLIC HEARINGS, NEW BUSINESS, AND ACTION ITEMS

### 8.1 Adopt 2021-2022 Annual Update for the Santa Cruz COE

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the LCAP and Annual Update (EDC § 52062(b)), the Board was asked to adopt the Annual Update for the Santa Cruz COE.

A motion was made to adopt the 2021-2022 Annual Update for the Santa Cruz COE (Van Allen/Roth 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.2 Adopt 2021-2022 Local Control and Accountability Plan (LCAP) for the Santa Cruz COE

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the specific actions and expenditures proposed by the Local Control Accountability Plan of the Santa Cruz County Office of Education (EDC § 52062(b)), the Board was asked to adopt the LCAP.

A motion was made to adopt the 2021-2022 Local Control and Accountability Plan (LCAP) for the Santa Cruz COE (Wall/Van Allen 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.3 Adopt 2021-2022 Budget Overview for Parents for the Santa Cruz COE

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the Budget Overview for Parents of the Santa Cruz County Office of Education (EDC § 52062(b)), the Board was asked to adopt the Budget Overview for Parents.

A motion was made to adopt the Budget Overview for Parents of the Santa Cruz County Office of Education Santa Cruz COE (Sanchez/Nichols 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.4 <u>Adopt 2021-2022 Annual Update for the Santa Cruz County Career Advancement</u> <u>Charter</u>

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the LCAP and Annual Update (EDC § 52062(b)), the Board was asked to adopt the Annual Update.

A motion was made to adopt the 2021-2022 Annual Update for the Santa Cruz County Career Advancement Charter (Van Allen/Wall 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.5 <u>Adopt 2021-2022 Local Control and Accountability Plan (LCAP) for the Santa Cruz</u> <u>County Career Advancement Charter</u>

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the specific actions and expenditures proposed by the Local Control Accountability Plan of the Santa Cruz County Career Advancement Charter (EDC § 52062(b)), the Board was asked to adopt the LCAP.

A motion was made to adopt the 2021-2022 Annual Update for the Santa Cruz County Career Advancement Charter (Nichols/Roth 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.6 <u>Adopt 2021-2022 Budget Overview for Parents for the Santa Cruz</u> <u>County Career Advancement Charter</u>

Following a public hearing held on June 17, 2021 to solicit recommendations and comments from members of the public regarding the Budget Overview for Parents of the Career Advancement Charter (EDC § 52062(b)), the Board was asked to adopt the Budget Overview for Parents.

A motion was made to adopt the 2021-2022 Budget Overview for the Santa Cruz County Career Advancement Charter (Nichols/Sanchez 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.7 Adopt Santa Cruz County Office of Education 2021-2022 Budget

Following a Public Hearing held on June 17, 2021 to solicit recommendation and comments from members of the public regarding the Santa Cruz County Office of Education's 2021 - 2022 Budget, the Board was asked to adopt the budget as presented.

Trustee Van Allen asked a clarifying question before the roll call vote.

A motion was made to adopt the 2021-2022 Santa Cruz County Office of Education Budget as presented (Nichols/Van Allen 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.8 First Reading: Board Policy 5000s Series

The Policy Committee asked the Board to review the following Board Policies for adoption:

BP 5141	Health Care and Emergencies
BP 5141.21	Administering Medication And Monitoring Health Conditions
BP 5141.22	Infectious Diseases
BP 5141.3	Health Examinations
BP 5141.52	Suicide Prevention
BP 5141.6	School Health Services
BP 5141.7	Sun Safety
BP 5142	Safety

President Filicetti thanked COE Human Resources Director Troy Cope for assisting the policy committee in reviewing the board policies presented in this meeting.

Board members asked clarifying questions on the policies.

A motion was made to waive the second reading and adopt the following Board Policies 5141, 5141.21, 5142.22, 5141.3, 5141.52, 5141.6, and 5141.7; and to send Board Policy 5142 to the policy committee for reviewal (Van Allen/Wall 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.9 First Reading: Board Bylaws 9000s Series

The Policy Committee asked the Board to review the following Board Bylaws for adoption:

BB 9000	Role of the Board
BB 9005	Governance Standards

A motion was made to waive the second reading and adopt Board Bylaws 9000 and 9005 (Nichols/Roth 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 8.10 Second Reading: Board Bylaws 9000s Series

The Policy Committee asked the Board to review the following Board Bylaws for adoption:

BB 9250 Remuneration, Reimbursement And Other Benefits

A motion was made to adopt Board Bylaw 9250 and to remove Board Bylaws 9250.1 and 9250.2 (Nichols/Acosta 7-0).

Ayes:	Acosta, Nichols, Roth, Sanchez, Van Allen, Wall, Filicetti
Nays:	None
Abstain:	None
Absent:	None

### 9. SCHEDULE OF MEETINGS AND COMING EVENTS

Santa Cruz County Board of Education Regular Meeting (Virtual) July 15, 2021 4:00 p.m.

### 10. ADJOURNMENT

The Board President adjourned the meeting at 6:10pm.



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Mee	ting Date:	July 15, 2021	X	Action		Information
TO:	Santa Cruz	County Board of E	ducation			
FROM:	Liann Reye	es, Deputy Superinte	endent, Busi	ness Servic	es	

**SUBJECT**: Routine Budget Revisions for June and July

## BACKGROUND

Adjusts the 20-21 Spending Plan.

## SUPERINTENDENT'S RECOMMENDATION:

Approve the routine budget revisions.

## FISCAL IMPLICATIONS:

Detailed herein.



BOARD OF EDUCATION Mr. Ed Acosta Ms. Rose Filicetti Ms. Sandra Nichols Ms. Sue Roth Mr. Abel Sanchez Mr. Bruce Van Allen Ms. Alyssa Wall

400 Encinal Street, Santa Cruz, CA 95060 🛛 Tel (831) 466-5600 🖉 Fax (831) 466-5607 🖻 www.santacruzcoe.org

# MEMO

- DATE: July 9, 2021
- TO: Santa Cruz County Board of Education Dr. Faris Sabbah, County Superintendent of Schools
- FROM: Liann Reyes, Deputy Superintendent, Business Services Melissa Lopez, Director of Fiscal Services
- RE: June/July Budget Revisions

No budget revisions were processed during the month of June.

Although budget revisions processed during the month of July will be presented at the August Board meeting, there is one budget revision that will be processed in excess of \$25,000 that we want the Board to be aware of so the contract can be initiated.

# Pacheco Bill Compliance:

There is one professional services agreement/contract in excess of \$25,000 that requires a budget revision to be processed during July 2021. A contract with Mountains2Sea will expand services provided to six Alternative Education school sites. Mountains2See seeks to empower youth using outdoor adventure learning to help students achieve their personal potential; participants of the program develop a strong foundation for personal health and well-being, expand their understanding of the natural world, and gain practical life skills. The contract is not to exceed \$45,000.00.

Business department staff continue to communicate and work closely with department staff and managers to review revenues, expenditures, and budgets for 2021-22 as we progress with 2020-21 fiscal year-end close processes.

Should you have any questions, please feel free to contact us.

LR:ml

cc: Rebecca Olker



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Meeting Date:	July 15, 2021	X	Action	Information
			-	

**TO**: Santa Cruz County Board of Education

**FROM**: John Rice, Senior Director, Alternative Education

SUBJECT: 2021-2022 Alternative Education Consolidated Application

## BACKGROUND

The Board will be asked to approve the 2021-2022 Alternative Education Consolidated Application.

## SUPERINTENDENT'S RECOMMENDATION:

Approve the 2021-2022 Alternative Education Consolidated Application.

# FISCAL IMPLICATIONS:

None.

### **Consolidated Application**

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 6/24/2021 2:29 PM

# 2021-22 Certification of Assurances

Submission of Certification of Assurances is required every fiscal year. A complete list of legal and program assurances for the fiscal year can be found at https://www.cde.ca.gov/fg/aa/co/ca21assurancestoc.asp.

### **CDE Program Contact:**

Consolidated Application Support Desk, Education Data Office, ConAppSupport@cde.ca.gov, 916-319-0297

### **Consolidated Application Certification Statement**

I hereby certify that all of the applicable state and federal rules and regulations will be observed by this applicant; that to the best of my knowledge the information contained in this application is correct and complete; and I agree to participate in the monitoring process regarding the use of these funds according to the standards and criteria set forth by the California Department of Education Federal Program Monitoring (FPM) Office. Legal assurances for all programs are accepted as the basic legal condition for the operation of selected projects and programs and copies of assurances are retained on site. I certify that we accept all assurances except for those for which a waiver has been obtained or requested. A copy of all waivers or requests is on file. I certify that actual ink signatures for this form are on file.

Authorized Representative's Full Name	Faris Sabbah
Authorized Representative's Signature	
Authorized Representative's Title	Superintendent
Authorized Representative's Signature Date	07/15/2021

# **Consolidated Application**

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 7/6/2021 2:57 PM

# 2021-22 Protected Prayer Certification

Every Student Succeeds Act (ESSA) Section 8524 specifies federal requirements regarding constitutionally protected prayer in public elementary and secondary schools. This form meets the annual requirement and provides written certification.

### **CDE Program Contact:**

Carrie Lopes, Title I Policy, Program, and Support Office, CLopes@cde.ca.gov, 916-319-0126

### **Protected Prayer Certification Statement**

The local educational agency (LEA) hereby assures and certifies to the California State Board of Education that the LEA has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools as set forth in the "Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools."

The LEA hereby assures that this page has been printed and contains an ink signature. The ink signature copy shall be made available to the California Department of Education upon request or as part of an audit, a compliance review, or a complaint investigation.

The authorized representative agrees to the above statement	Yes
Authorized Representative's Full Name	Faris Sabbah
Authorized Representative's Title	Superintendent
Authorized Representative's Signature Date	07/15/2021
Comment	
If the LEA is not able to certify at this time, then an explanation must be provided in the comment field. (Maximum 500 characters)	

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 7/6/2021 3:26 PM

# 2021-22 LCAP Federal Addendum Certification

### CDE Program Contact:

Local Agency Systems Support Office, LCAPAddendum@cde.ca.gov, 916-323-5233

### **Initial Application**

To receive initial funding under the Every Student Succeeds Act (ESSA), a local educational agency (LEA) must have a plan approved by the State Educational Agency on file with the State. Within California, LEAs that apply for ESSA funds for the first time are required to complete the Local Control and Accountability Plan (LCAP), the LCAP Federal Addendum Template (Addendum), and the Consolidated Application (ConApp). The LCAP, in conjunction with the Addendum and the ConApp, serve to meet the requirements of the ESSA LEA Plan.

In order to initially apply for funds, the LEA must certify that the current LCAP has been approved by the local governing board or governing body of the LEA. As part of this certification, the LEA agrees to submit the LCAP Federal Addendum, that has been approved by the local governing board or governing body of the LEA, to the California Department of Education (CDE) and acknowledges that the LEA agrees to work with the CDE to ensure that the Addendum addresses all required provisions of the ESSA programs for which they are applying for federal education funds.

### **Returning Application**

If the LEA certified a prior year LCAP Federal Addendum Certification data collection form in the Consolidated Application and Reporting System, then the LEA may use in this form the same original approval or adoption date used in the prior year form.

County Office of Education (COE) or District	09/19/2019
For a COE, enter the original approval date as the day the CDE approved the current LCAP. For a district, enter the original approval date as the day the COE approved the current LCAP	
Direct Funded Charter	
Enter the adoption date of the current LCAP	
Authorized Representative's Full Name	Faris Sabbah
Authorized Representative's Title	Superintedent

\*\*\*Warning\*\*\* The data in this report may be protected by the Family Educational Rights and Privacy Act (FERPA) and other applicable data privacy laws. Unauthorized access or sharing of this data may constitute a violation of both state and federal law.

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 7/6/2021 3:23 PM

# 2021-22 Application for Funding

### CDE Program Contact:

Consolidated Application Support Desk, Education Data Office, ConAppSupport@cde.ca.gov, 916-319-0297

### Local Governing Board Approval

The local educational agency (LEA) is required to review and receive approval of their Application for Funding selections with their local governing board.

Date of approval by local governing board	07/15/2021

### **District English Learner Advisory Committee Review**

Per Title 5 of the California Code of Regulations Section 11308, if your LEA has more than 50 English learners, then the LEA must establish a District English Learner Advisory Committee (DELAC) which shall review and advise on the development of the application for funding programs that serve English learners.

DELAC representative's full name	Denise Sanson
(non-LEA employee)	
DELAC review date	02/23/2021
Meeting minutes web address	https://santacruzcoe.org/
Please enter the web address of DELAC review meeting minutes (format http://SomeWebsiteName.xxx). If a web address is not available, then the LEA must keep the minutes on file which indicate that the application was reviewed by the committee.	
DELAC comment	
If an advisory committee refused to review the application, or if DELAC review is not applicable, enter a comment. (Maximum 500 characters)	

### **Application for Categorical Programs**

To receive specific categorical funds for a school year, the LEA must apply for the funds by selecting Yes below. Only the categorical funds that the LEA is eligible to receive are displayed.

Title I, Part A (Basic Grant)	Yes
ESSA Sec. 1111et seq. SACS 3010	
Title I, Part D Subpart 2 (Delinquent)	Yes
ESSA Sec. 1401 SACS 3025	
Title II, Part A (Supporting Effective Instruction)	Yes
ESEA Sec. 2104 SACS 4035	
Title III English Learner	No
ESEA Sec. 3102 SACS 4203	

#### \*\*\*Warning\*\*\*

The data in this report may be protected by the Family Educational Rights and Privacy Act (FERPA) and other applicable data privacy laws. Unauthorized access or sharing of this data may constitute a violation of both state and federal law.

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 7/6/2021 3:23 PM

# 2021-22 Application for Funding

### **CDE Program Contact:**

Consolidated Application Support Desk, Education Data Office, ConAppSupport@cde.ca.gov, 916-319-0297

Title III Immigrant	No
ESEA Sec. 3102 SACS 4201	
Title IV, Part A (Student and School Support)	Yes
ESSA Sec. 4101 SACS 4127	

\*\*\*Warning\*\*\*
The data in this report may be protected by the Family Educational Rights and Privacy Act (FERPA) and other applicable data privacy laws. Unauthorized access or sharing of this data may constitute a violation of both state and federal law.

## **Consolidated Application**

Santa Cruz County Office of Education (44 10447 000000)

Status: Certified Saved by: Nikki Cendreda Date: 7/6/2021 3:24 PM

# 2021-22 Substitute System for Time Accounting

This certification may be used by auditors and by California Department of Education oversight personnel when conducting audits and sub-recipient monitoring of the substitute time-and-effort system. Approval is automatically granted when the local educational agency (LEA) submits and certifies this data collection.

### **CDE Program Contact:**

Hilary Thomson, Fiscal Oversight and Support Office, HThomson@cde.ca.gov, 916-323-0765

The LEA certifies that only eligible employees will participate in the substitute system and that the system used to document employee work schedules includes sufficient controls to ensure that the schedules are accurate.

Detailed information on documenting salaries and wages, including both substitute systems of time accounting, are described in Procedure 905 of the California School Accounting Manual posted on the web at https://www.cde.ca.gov/fg/ac/sa/.

2021-22 Request for authorization	No
LEA certifies that the following is a full disclosure of any known deficiencies with the substitute system or known challenges with implementing the system	
(Maximum 500 characters)	



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Mee	ting Date:	July 15, 2021	X	Action	Information
TO:	Santa Cruz	County Board of Ed	ucation		
_		_		-	

FROM: Liann Reyes, Deputy Superintendent, Business Services

SUBJECT: Surplus Items

## BACKGROUND

The Santa Cruz County Office of Education (COE) owns eighty-eight (88) computers that are no longer viable for business.

We determined that they do not hold monetary value and therefore we advise to implement Education Code 17545(a).

Per Board Policy 3260 and 3270, the Board must evaluate and vote on the disposal method for computers. This Board Policy is attached for your review.

## SUPERINTENDENT'S RECOMMENDATION:

Approve disposal of surplus items.

# FISCAL IMPLICATIONS:

Detailed herein.

TO:	County Office of Education Board of Trustees
FROM:	Liann Reyes, Deputy Superintendent, Business
DATE:	July 15, 2021
RE:	Surplus Computers (E-Waste)

The County Office of Education (COE) has 88 computers that are no longer viable for use. These computers were purchased between the years of 2006 through 2015. It is further determined that these computers cannot be sold for more than \$2,500, even if bundled together and sold as a "lot". Therefore, the Board is being advised to implement Education Code 17546(a), which is attached for your reference.

In addition, per attached board policy (BP 3260 and BP 3270), the Board must evaluate and vote on the disposal method for computers. Since BP 3260 discloses a specific order on how to accomplish the disposal of items, it is recommended that the Board refer to Item 4 which states, in part, that items "shall be disposed of in the most efficient manner".

Staff recommends that the Board vote to dispose of the computers by surplusing them through a local nonprofit.

## **EDUCATION CODE**

**17545.** (a) The governing board of any school district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there. If there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no newspaper, then in a newspaper having a general circulation in the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest responsible bidder upon completion of the auction and after payment has been received by the district.

17546. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of two thousand five hundred dollars (\$2,500), it may be sold at private sale without advertising, by any employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 17545, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board, or it may be disposed of in the local public dump on order of any employee of the district empowered for that purpose by the board.

17547. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made or in the general or reserve fund of the district.

### **Business and Non-Instructional Operations**

### SALE OR OTHER DISPOSITION OF SURPLUS PERSONAL PROPERTY

The Santa Cruz County Superintendent of Schools (County Superintendent) may sell or otherwise dispose of any personal property that he/she declares surplus to the needs of the Santa Cruz County Office of Education (SCCOE), through a process consistent with Education Code.

Personal property is defined as instructional materials, equipment, relocatable buildings, supplies, vehicles, and other such items.

The following shall be the order in which disposal is accomplished.

The County Superintendent is required to certify the value of the property in a report to the 1. Santa Cruz County Board of Education (County Board) for its review.

2. Offer the property at fair market value to all school districts within Santa Cruz County.

3. Conduct a public sale at fair market value.

4. Surplus personal property that the County Superintendent and the County Board agree to be of insufficient value to defray the cost of arranging a sale shall be disposed of in the most efficient manner not inconsistent with the Education Code.

For surplus personal property estimated to be over \$25,000 that belongs to SCCOE, the County Superintendent is required by law to:

- 1. Obtain an independent evaluation of the property.
- 2. Bring the proposed sale to the attention of the County Board for its approval.
- 3. Advertise property for sale in a newspaper of general circulation for no less than one week.

### Legal Reference:

EDUCATION CODE 1279 County Superintendent of Schools, disposing of personal property 1605 Property Title 17540-17542 Sale or lease of personal property by on district to another 17545-17555 Sale of personal property 35168 Inventory, including record of time and mode of disposal 60500-60530 Sale, donation, or disposal of instructional materials GOVERNMENT CODE 25505 District property, disposition, proceeds CODE OF REGULATIONS, TITLE 5 *3944 Consolidated categorical programs, district title to equipment 3946 Disposal of equipment purchased with state and federal consolidated application funds* UNITED STATES CODE, TITLE 40

549 Surplus Property

## SALE AND DISPOSAL OF BOOKS, EQUIPMENT AND SUPPLIES

When any Santa Cruz County Office of Education (SCCOE)-owned instructional materials, equipment, supplies, or other personal property becomes unusable, obsolete, or no longer needed, the County Superintendent of Schools or designee shall notify the County Board of Education (CBE), provide an estimated value, and recommend whether the items be sold or disposed of by one of the methods prescribed in law and administrative regulation. Upon approval by the CBE, the County Superintendent or designee shall arrange for the sale or disposal of these items.

If the CBE members who are in attendance at a meeting unanimously agree that the property, whether one or more items, does not exceed \$2,500 in value, the property may be sold without advertising for bids. (Education Code 17546)

If the CBE members who are in attendance at a meeting unanimously find that the value of the property is insufficient to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the CBE or may be disposed of in the local public dump. (Education Code 17546)

Instructional materials may be considered obsolete or unusable when they:

1. Have been replaced by more recent editions or new materials selected by the CBE and have no foreseeable value in other instructional areas.

2. Contain information rendered inaccurate or incomplete by new research or technologies.

3. Contain demeaning, stereotyping, or patronizing references to any group of persons protected against discrimination by law or CBE policy.

4. Are damaged beyond use or repair.

The County Superintendent or designee shall establish procedures to be used when selling equipment for which the federal government has a right to receive all or part of the proceeds. These procedures shall ensure a reasonable amount of competition so as to result in the highest possible revenue.

## Legal Reference:

EDUCATION CODE 17540-17542 Sale or lease of personal property by one district to another 17545-17555 Sale of personal property 35168 Inventory, including record of time and mode of disposal 42291.5 Temporary school bus designation 42303 School bus sale to another district 60500-60530 Sale, donation, or disposal of instructional materials BP 3270 Sale and Disposal of Books, Equipment and Supplies Page 2

GOVERNMENT CODE

25505 District property; disposition; proceeds CODE OF REGULATIONS, TITLE 5 3944 Consolidated categorical programs, district title to equipment 3946 Disposal of equipment purchased with state and federal consolidated application funds UNITED STATES CODE, TITLE 40 549 Surplus property CODE OF FEDERAL REGULATIONS, TITLE 34 80.32 Equipment acquired under a grant or sub-grant Management Resources: CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS California School Accounting Manual Standards for Evaluating Instructional Materials for Social Content, 2000 WEB SITES California Department of Education: http://www.cde.ca.gov School Services of California, Inc.: http://www.sscal.com Adopted: June 21, 2018

AssetTag	StatusId	ProductId	SerialNumber	PurchasDate	Value
15112	E-Waste-01	Desktop - Dell - OptiPlex - 745	3VB80C1	2006-10-25	\$0
20116	E-Waste-01	Desktop - Dell - OptiPlex - 745	6R2HMC1	2007-03-06	\$0
15403	E-Waste-01	Desktop - Dell - OptiPlex - 755	FK76HF1	2008-01-16	\$0
15414	E-Waste-01	Desktop - Dell - OptiPlex - 755	1H76HF1	2008-01-16	\$0
15611	E-Waste-01	Desktop - Dell - OptiPlex - 755	GNP5HF1	2008-01-16	\$0
15689	E-Waste-01	Desktop - Dell - OptiPlex - 755	CVDVTG1	2008-07-16	\$0
20158	E-Waste-01	Desktop - Dell - OptiPlex - 755	9VDVTG1	2008-07-16	\$0
15557	E-Waste-01	Desktop - Dell - OptiPlex - 755	H4VYXH1	2009-01-07	\$0
15556	E-Waste-01	Desktop - Dell - OptiPlex - 755	G4VYXH1	2009-01-07	\$0
20209	E-Waste-01	Desktop - Dell - OptiPlex - 755	2YB1ZH1	2009-01-20	\$0
15335	E-Waste-01	Desktop - Dell - OptiPlex - 780	1n2n4k1	2009-05-21	\$0
15899	E-Waste-01	Desktop - Dell - OptiPlex - 780	2qp5xq1	2009-05-21	\$0
16031	E-Waste-01	Desktop - Dell - OptiPlex - 780	71x1dq1	2009-05-21	\$0
16036	E-Waste-01	Desktop - Dell - OptiPlex - 780	3sb3dk1	2009-05-21	\$0
16037	E-Waste-01	Desktop - Dell - OptiPlex - 780	fq81yr2	2009-05-21	\$0
16048	E-Waste-01	Desktop - Dell - OptiPlex - 780	2Q37XQ1	2009-05-21	\$0
16051	E-Waste-01	Desktop - Dell - OptiPlex - 780	2qq7xq1	2009-05-21	\$0
16054	E-Waste-01	Desktop - Dell - OptiPlex - 780	2q27xq1	2009-05-21	\$0
15057	E-Waste-01	Desktop - Dell - OptiPlex - 760	3S9VCK1	2009-08-12	\$0
15860	E-Waste-01	Desktop - Dell - OptiPlex - 760	F12PHK1	2010-01-05	\$0
15864	E-Waste-01	Desktop - Dell - OptiPlex - 780	JKSH3M1	2010-02-26	\$0
15956	E-Waste-01	Desktop - Dell - OptiPlex - 780	39FS9P1	2011-01-19	\$0
16135	E-Waste-01	Desktop - Dell - OptiPlex - 780	D5PNDQ1	2011-02-07	\$0
16137	E-Waste-01	Desktop - Dell - OptiPlex - 780	D5NNDQ1	2011-04-07	\$0
16138	E-Waste-01	Desktop - Dell - OptiPlex - 780	D5LPDQ1	2011-04-07	\$0
15971	E-Waste-01	Desktop - Dell - OptiPlex - 780	7VX0GQ1	2011-05-04	\$0
16070	E-Waste-01	Desktop - Dell - OptiPlex - 780	7CV31R1	2011-09-08	\$0
16077	E-Waste-01	Desktop - Dell - OptiPlex - 780	7CTY0R1	2011-09-08	\$0
16088	E-Waste-01	Desktop - Dell - OptiPlex - 780	7CVZ0R1	2011-09-08	\$0
16085	E-Waste-01	Laptop - Dell - Latitude - E6420	39KJ3R1	2011-09-11	\$0
16090	E-Waste-01	Laptop - Dell - Latitude - E6420	2NKJ3R1	2011-09-11	\$0
15896	E-Waste-01	Laptop - Dell - Latitude - E6440	GL52FS1	2011-12-11	\$0

15886	E-Waste-01	Desktop - Dell - OptiPlex - 780	FQ81YR1	2011-12-19	\$0
16104	E-Waste-01	Laptop - Dell - Latitude - E6420	G247FS1	2011-12-19	\$0
15876	E-Waste-01	Desktop - Dell - OptiPlex - 790	DJFLKS1	2012-03-01	\$0
16332	E-Waste-01	Desktop - Dell - OptiPlex - 790	DJFMKS1	2012-03-01	\$0
15902	E-Waste-01	Desktop - Dell - OptiPlex - 790	DJFPKS1	2012-03-01	\$0
15990	E-Waste-01	Laptop - Dell - Latitude - E6420	BRRPBS1	2012-03-05	\$0
16344	E-Waste-01	Desktop - Dell - OptiPlex - 790	G43WKS1	2012-03-07	\$0
16349	E-Waste-01	Desktop - Dell - OptiPlex - 790	3S5HLS1	2012-03-15	\$0
20234	E-Waste-01	Desktop - Dell - OptiPlex - 790	3S5FLS1	2012-03-15	\$0
20237	E-Waste-01	Desktop - Dell - OptiPlex - 790	27KDMS1	2012-04-03	\$0
20121	E-Waste-01	Desktop - Dell - OptiPlex - 790	27KGMS1	2012-04-03	\$0
16358	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKMDNS1	2012-04-12	\$0
20042	E-Waste-01	Desktop - Dell - OptiPlex - 790	fkm9ns1	2012-04-24	\$0
20719	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKM9NS1	2012-04-24	\$0
16363	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKLBNS1	2012-04-24	\$0
16369	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKKFNS1	2012-04-24	\$0
20171	E-Waste-01	Desktop - Dell - OptiPlex - 780	FKL8NS1	2012-04-24	\$0
16359	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKP7NS1	2012-04-24	\$0
16368	E-Waste-01	Desktop - Dell - OptiPlex - 790	FKL9NS1	2012-04-29	\$0
20062	E-Waste-01	Laptop - Dell - Latitude - E6420	HCXQCS1	2012-04-29	\$0
15988	E-Waste-01	Desktop - Dell - OptiPlex - 790	36J04V1	2012-05-25	\$0
16377	E-Waste-01	Desktop - Dell - OptiPlex - 790	36JV3V1	2012-05-25	\$0
16376	E-Waste-01	Desktop - Dell - OptiPlex - 790	36JY3V1	2012-05-25	\$0
16373	E-Waste-01	Laptop - Dell - Latitude - E6420	F21VDS1	2012-06-01	\$0
20076	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JF54V1	2012-06-02	\$0
20088	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JC94V1	2012-06-02	\$0
20074	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JF64V1	2012-06-02	\$0
20078	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JJ34V1	2012-06-02	\$0
20084	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JJ54V1	2012-06-02	\$0
20091	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JK44V1	2012-06-02	\$0
20080	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JJ94V1	2012-06-02	\$0
20086	E-Waste-01	Desktop - Dell - OptiPlex - 790	6JF94V1	2012-06-02	\$0
16049	E-Waste-01	Desktop - Dell - OptiPlex - 780	2QN5XQ1	2012-07-06	\$0

16008	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRF7V1	2012-08-01	\$0
16006	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRP7V1	2012-08-01	\$0
16007	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCSR7V1	2012-08-01	\$0
16009	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRL7V1	2012-08-01	\$0
16013	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRR7V1	2012-08-01	\$0
16016	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRM7V1	2012-08-01	\$0
16001	E-Waste-01	Desktop - Dell - OptiPlex - 790	GCRG7V1	2012-08-01	\$0
11135	E-Waste-01	Laptop - Dell - Latitude - E6420	43P6HV1	2012-08-31	\$0
20048	E-Waste-01	Laptop - Dell - Latitude - E6430	BP7P9W1	2012-12-22	\$0
20095	E-Waste-01	Desktop - Dell - OptiPlex - 7010	8MCSPW1	2012-12-28	\$0
20096	E-Waste-01	Desktop - Dell - OptiPlex - 7010	8MCRPW1	2012-12-28	\$0
20200	E-Waste-01	Laptop - Dell - Latitude - E6430	G96VWW1	2013-02-18	\$0
20101	E-Waste-01	Desktop - Dell - OptiPlex - 7010	F0FPHX1	2013-06-27	\$0
20118	E-Waste-01	Desktop - Dell - OptiPlex - 7010	H5QG8Y1	2013-08-09	\$0
20126	E-Waste-01	Laptop - Dell - Latitude - E6430	HFWDPX1	2013-09-04	\$0
20256	E-Waste-01	Desktop - Dell - OptiPlex - 3020	4S75H02	2014-03-27	\$0
15875	E-Waste-01	Laptop - Dell - Latitude - E6420	CKV06Q1	2014-06-16	\$0
20174	E-Waste-01	Desktop - Dell - OptiPlex - 7010	72G9Q22	2014-11-07	\$0
20794	E-Waste-01	Laptop - Apple - MacBook Air - A1466	c1msc4alh3qk	2015-01-01	\$0
20265	E-Waste-01	Laptop - Dell - Latitude - E6440	J98WQ32	2015-05-30	\$0
20514	E-Waste-01	Desktop - Dell - OptiPlex - 7020	CQX7082	2015-11-05	\$0
15953	E-Waste-01	N/A	N/A	N/A	\$0
20043	E-Waste-01	Unknown	Unknown	Unknown	\$0
		88			



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Mee	ting Date:	July 15, 2021	X	Action	Information
TO:	Santa Cruz	County Board of Edu	cation		

Liann Reyes, Deputy Superintendent, Business Services

**SUBJECT:** Gifts and Donations

## BACKGROUND

FROM:

County Board of Education Policy 3280 requires that all gifts and donations received by programs conducted by the County Superintendent of Schools be accepted by the County Board of Education.

## SUPERINTENDENT'S RECOMMENDATION:

Accept gifts and donations as follows:

<u>Program</u>	Donor	<u>Value</u>
Black Scholars Graduation	NAACP Santa Cruz Branch Bonnie Overgaard Sutkus Family Trust Thomas and Lucile Ttees	\$500 \$1,000 \$100

## **FISCAL IMPLICATIONS:**

Gifts/Donations received will be utilized by the programs to which they are donated.



# SANTA CRUZ COUNTY BOARD OF EDUCATION

# **AGENDA ITEM**

Board Mee	ting Date:	July 15, 2021	Action	X Information
TO:	Santa Cruz	County Board of Edu	cation	
FROM:	Dr. Faris Sabbah, County Superintendent of Schools			
SUBJECT:	Correspondence			

# BACKGROUND

Official correspondence received by the Board is included herein.

## SUPERINTENDENT'S RECOMMENDATION:

Receive correspondence.





# Re: Gratitude, availability and a study

3 messages

Bruce Van Allen <br/>
bvanallen@santacruzcoe.org> To: Erica Stanojevic <ericast@gmail.com> Cc: Rose Filicetti <rfilicetti@santacruzcoe.org>, Faris Sabbah <fsabbah@santacruzcoe.org>, Verenise Valentin <vvalentin@santacruzcoe.org>

Hi Erica,

On 1 Jul 2021, at 17:00, Erica Stanojevic wrote: Hi Bruce,

I know it is challenging to receive the force of community frustrations.

I enjoyed it, and I really appreciate the care and concern speakers showed for their children - and all children!

I am saddened that for some people to express their strong feelings, they feel they must resort to bullying - such as suggesting that those who don't agree with them are ignorant, cowardly, or corrupt.

I'm back from being out of town; I'd love a meeting! Next week I potentially can meet in the afternoons Tues 6th - Fri 9th. If that doesn't work, let's figure something else out.

Unfortunately, the organized testimony included threats of legal action against the County Office of Education, the County Board, and individual Board Trustees. Whatever the merits, as a public official I have to take those threats seriously. Consequently, I have decided not to have any private meetings about this topic. My decision is independent of other Trustees' choices.

I am very curious, do you have studies showing that mask wearing among children is safe? If you do not, would you please ask the health officers to provide such?

A valid scientific study would show \*risk levels\* for the population it sampled, under the described conditions of the study subjects and their environments. "Proof" that something won't happen is not a scientific outcome. Could someone prove that riding a bike is safe - or that it is NOT safe?

As all across the education world, I am doing my best to be informed about all aspects of the pandemic's impacts on students and schools. I am eager to review materials and links you send; please provide them to all Board Trustees or submit them in public testimony at Board meetings. For me, the email is <br/>submit them in public testimony at Board meetings. For me, the email is <br/>dvanallen@santacruzcoe.org>, or you can email to the Board as a whole via Verenise Valentin, Administrative Assistant to the Superintendent/Deputy Superintendent, at <vvalentin@santacruzcoe.org>.

Mailing address: c/o Santa Cruz County Office of Education 400 Encinal Street Santa Cruz, CA 95060

Again, I appreciate and respect your concern and commitment, and I am hopeful that our community and the wider world will find ways forward that work for everyone.

The pandemic has heightened awareness of our social & economic disparities, inadequate healthcare systems, environmental neglect, and challenged governance. My goal in this period is that we pay attention and learn, to motivate changing our ways and repairing the damage done.

Best Regards,

Bruce Van Allen Trustee, Area 2

Tue, Jul 6, 2021 at 9:47 AM

bvanallen@santacruzcoe.org 831-429-1688

 Erica Stanojevic <ericast@gmail.com>
 Wed, Jul 7, 2021 at 2:20 PM

 To: Bruce Van Allen <bvanallen@santacruzcoe.org>
 Cc: Rose Filicetti <rfilicetti@santacruzcoe.org>, Faris Sabbah <fsabbah@santacruzcoe.org>, Verenise Valentin

 <vvalentin@santacruzcoe.org>

Hi Bruce,

Thank you for your reply; and thank you all for your service.

I do agree with you that it was unfortunate that some people expressed themselves in ways that were not constructive.

I am happy to meet you in public in any way that works. The concerns that we have are very real and dialogue is obviously a preferable first route. This week my time is rapidly filling; Friday afternoon I can be available and next week I am fairly flexible.

Again, our group is simply interested in choice. We ask that children and families have the choice to say no to masks with no conditions or stigma attached. Fortunately, this can be done without fear because schools have been shown time and again to not be major sources of transmission. So, there is no significant danger to the wider community.

I am confused by your reference to "proof". I ask for no "proof"; simply evidence from high-quality studies that show that masks are reasonably safe for children. Science is a conversation; and I have studies that show potential harm. What evidence do you have to show masks are safe for children to wear for extended periods of time? Then we can have a discussion about the studies. To be clear, mask wearing is not like bike riding - I know I take my chances every time I get on my bike (as I do in my car). However that is very different from continuously wearing a mask which may impact the inhaled levels of oxygen. Being hit by a car on my bike is one sharp incident; continuously breathing in elevated carbon dioxide levels is another situation entirely.

I'll resend two of the main studies I have, and Valentin please do share these with all the board members, thank you.

First, a recent peer-reviewed randomized clinical trial which shows elevated carbon dioxide levels for the inhaled air when children wear masks, an effect that is more pronounced with younger children: <a href="https://jamanetwork.com/journals/jamapediatrics/fullarticle/2781743?utm\_source=JangoMail&utm\_medium=Email&utm\_campaign=Good+News+Friday+July+2+(342179496)&utm\_content="https://jamanetwork.com/">https://jamanetwork.com/</a>

The authors state, "This leads in turn to impairments attributable to hypercapnia. A recent review<sup>6</sup> concluded that there was ample evidence for adverse effects of wearing such masks. We suggest that decision-makers weigh the hard evidence produced by these experimental measurements accordingly, which suggest that children should not be forced to wear face masks."

The second is a meta-analysis of mask usage, although it is not focused on children.

https://www.mdpi.com/1660-4601/18/8/4344/htm

In the abstract, these authors state:

In this paper, we refer to the psychological and physical deterioration as well as multiple symptoms described because of their consistent, recurrent and uniform presentation from different disciplines as a Mask-Induced Exhaustion Syndrome (MIES). We objectified evaluation evidenced changes in respiratory physiology of mask wearers with significant correlation of  $O_2$  drop and fatigue (p < 0.05), a clustered co-occurrence of respiratory impairment and  $O_2$  drop (67%), N95 mask and  $CO_2$  rise (82%), N95 mask and  $O_2$  drop (72%), N95 mask and headache (60%), respiratory impairment and temperature rise (88%), but also temperature rise and moisture (100%) under the masks. Extended mask-wearing by the general population could lead to relevant effects and consequences in many medical fields.

Both of these are high-quality peer-reviewed papers that indicate that mask usage can cause harm to wearers. Please find studies that show some evidence that masks aren't causing harm. Perhaps that is by actively asking the health officers to share what studies they have about safety and efficacy of masks. It is ultimately the job of the health officers to share the information they have with you; it is up to you to interpret all of the information you receive. If such studies cannot be found, it is very clear that mask policies at schools need to change as there is evidence of harm, and it is unacceptable to cause harm to our children. I know that you agree, as I know you love children thriving so that they may grow to their full potential.

Bruce Van Allen <br/>
bvanallen@santacruzcoe.org> To: Erica Stanojevic <ericast@gmail.com> Cc: Rose Filicetti <rfilicetti@santacruzcoe.org>, Faris Sabbah <fsabbah@santacruzcoe.org>, Verenise Valentin <vvalentin@santacruzcoe.org>

Hi Erica,

Meeting in a public place doesn't make it a public meeting in this context. Please communicate to me and other Trustees via santacruzcoe.org email or at our meetings.

To clarify about "proof", your words as I quoted them from your previous message were "showing that mask wearing among children is safe". That is an absolute statement that is not scientific. And yes, assessing the risks of mask-wearing is exactly parallel to assessing the risks of bike riding.

Thanks for the additional links and background.

Best,

Bruce Van Allen Trustee, Area 2 Santa Cruz County Board of Education [Quoted text hidden]
## Letters

#### **RESEARCH LETTER**

## Experimental Assessment of Carbon Dioxide Content in Inhaled Air With or Without Face Masks in Healthy Children: A Randomized Clinical Trial

Many governments have made nose and mouth covering or face masks compulsory for schoolchildren. The evidence base for this is weak.<sup>1,2</sup> The question whether nose and mouth covering increases carbon dioxide in inhaled air is crucial. A large-

## +

Supplemental content

scale survey<sup>3</sup> in Germany of adverse effects in parents and children using data of 25 930

children has shown that 68% of the participating children had problems when wearing nose and mouth coverings.

The normal content of carbon dioxide in the open is about 0.04% by volume (ie, 400 ppm). A level of 0.2% by volume or 2000 ppm is the limit for closed rooms according to the German Federal Environmental Office, and everything beyond this level is unacceptable.<sup>4</sup>

Methods | We measured carbon dioxide content in inhaled air with and without 2 types of nose and mouth coverings in a wellcontrolled, counterbalanced, short-term experimental study in volunteer children in good health (details are in the eMethods in Supplement 1). The study was conducted according to the Declaration of Helsinki and submitted to the ethics committee of the University Witten/Herdecke. All children gave written informed consent, and parents also gave written informed consent for children younger than 16 years. A 3-minute continuous measurement was taken for baseline carbon dioxide levels without a face mask. A 9-minute measurement for each type of mask was allowed: 3 minutes for measuring the carbon dioxide content in joint inhaled and exhaled air, 3 minutes for measuring the carbon dioxide content during inhalation, and 3 minutes for measuring the carbon dioxide content during exhalation. The carbon dioxide content of ambient air was always kept well under 0.1% by volume through multiple ventilations. The sequence of masks was randomized, and randomization was blinded and stratified by age of children. We analyzed data using a linear model for repeated measurements with P < .05 as the significance threshold. The measurement protocol (trial protocol in Supplement 2) is available online.<sup>5</sup> Data were collected on April 9 and 10, 2021, and analyzed using Statistica version 13.3 (TIBCO).

**Results** | The mean (SD) age of the children was 10.7 (2.6) years (range, 6-17 years), and there were 20 girls and 25 boys. Measurement results are presented in the Table. We checked potential associations with outcome. Only age was associated with carbon dioxide content in inhaled air (y =  $1.9867 - 0.0555 \times x$ ; *r* = -0.39; *P* = .008; **Figure**). Hence, we added age as a continuous covariate to the model. This revealed an association (partial  $\eta^2 = 0.43$ ; P < .001). Contrasts showed that this was attributable to the difference between the baseline value and the values of both masks jointly. Contrasts between the 2 types of masks were not significant. We measured means (SDs) between 13120 (384) and 13910 (374) ppm of carbon dioxide in inhaled air under surgical and filtering facepiece 2 (FFP2) masks, which is higher than what is already deemed unacceptable by the German Federal Environmental Office by a factor of 6. This was a value reached after 3 minutes of measurement. Children under normal conditions in schools wear such masks for a mean of 270 (interquartile range, 120-390) minutes.<sup>3</sup> The Figure shows that the value of the child with the lowest carbon dioxide level was 3-fold greater than the limit of 0.2 % by volume.<sup>4</sup> The youngest children had the highest values, with one 7-year-old child's carbon dioxide level measured at 25 000 ppm.

	Participants	Carbon dioxide, % by volume	
Measurement	No.	Mean (SD) [95% CI]	Range
Baseline			
Pretest	45	0.268 (0.108) [0.235-0.300]	0.100-0.628
Posttest <sup>a</sup>	39	0.281 (0.105) [0.247-0.316]	0.100-0.525
Main outcome			
Inhaled air with surgical mask	45	1.312 (0.384) [1.197-1.427]	0.577-2.554
Inhaled air with FFP2 mask	45	1.391 (0.374) [1.279-1.504]	0.600-2.475
Additional outcome			
Joint exhaled and inhaled air with surgical mask	45	2.650 (0.486) [2.504-2.796]	1.33-3.41
Exhaled air with surgical mask	44	3.847 (0.678) [3.641-4.053]	1.783-4.754
Joint inhaled and exhaled air with FFP2 mask	45	2.677 (0.386) [2.561-2.793]	1.660-3.418
Exhaled air with FFP2	45	3.846 (0.547) [3.682-4.011]	2.592-5.24
Carbon dioxide content in ambient air	NA	0.074 (0.003) [0.073-0.075]	0.067-0.083

Abbreviations: FFP, filtering facepiece; NA, not applicable.

<sup>a</sup> Posttest scores were missing in 6 children because they stopped the measurement after wearing the masks.

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#### Figure. Scatterplot of Carbon Dioxide Content in Inhaled Air Under Filtering Facepiece Mask by Age



Linear regression line with locally weighted scatterplot smoothing.

**Discussion** | The limitations of the study were its short-term nature in a laboratory-like setting and the fact that children were not occupied during measurements and might have been apprehensive. Most of the complaints reported by children<sup>3</sup> can be understood as consequences of elevated carbon dioxide levels in inhaled air. This is because of the dead-space volume of the masks, which collects exhaled carbon dioxide quickly after a short time. This carbon dioxide mixes with fresh air and elevates the carbon dioxide content of inhaled air under the mask, and this was more pronounced in this study for younger children.

This leads in turn to impairments attributable to hypercapnia. A recent review<sup>6</sup> concluded that there was ample evidence for adverse effects of wearing such masks. We suggest that decision-makers weigh the hard evidence produced by these experimental measurements accordingly, which suggest that children should not be forced to wear face masks.

Harald Walach, PhD Ronald Weikl, MD Juliane Prentice, BA Andreas Diemer, PhD, MD Helmut Traindl, PhD Anna Kappes, MA Stefan Hockertz, PhD

Author Affiliations: Poznan University of the Medical Sciences, Pediatric Clinic, Poznań, Poland (Walach); Obstetric, Gynecological, and General Practice, Passau, Germany (Weikl); Psychotherapeutic Practice, Müllheim, Germany (Prentice); General Practice, Gernsbach, Germany (Diemer); Traindl Consult, Vienna, Austria (Traindl); Psychotherapeutic Practice for Children and Youth, Müllheim, Germany (Kappes); tpi consult GmbH, Bollschweil, Germany (Hockertz).

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**Corresponding Author**: Harald Walach, PhD, Poznan University of the Medical Sciences, Pediatric Clinic, ul. Szpitalna 27/33, PL-60-572 Poznań, Poland (harald. walach@uni-wh.de).

Author Contributions: Dr Walach (principal investigator) had full access to all of the data in the study and takes responsibility for the integrity of the data and the accuracy of the data analysis.

Concept and design: All authors.

Acquisition, analysis, or interpretation of data: Walach, Weikl, Diemer, Traindl, Kappes, Hockertz.

Drafting of the manuscript: Walach, Traindl.

*Critical revision of the manuscript for important intellectual content:* Walach, Weikl, Prentice, Diemer, Kappes, Hockertz.

Statistical analysis: Walach.

Administrative, technical, or material support: Weikl, Prentice, Diemer, Traindl, Kappes, Hockertz.

Supervision: Weikl, Diemer, Traindl, Kappes, Hockertz.

Other-liaising with all other authors: Walach.

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#### Data Sharing Statement: See Supplement 3.

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# **Is a Mask That Covers the Mouth and Nose Free from Undesirable Side Effects in Everyday Use and Free of Potential Hazards?**

Kai Kisielinski <sup>1</sup>, Paul Giboni <sup>2</sup>, Andreas Prescher <sup>3</sup>, Bernd Klosterhalfen <sup>4</sup>, David Graessel <sup>5</sup>, Stefan Funken <sup>6</sup>, Oliver Kempski <sup>7</sup> and Oliver Hirsch <sup>8,\*</sup>

- <sup>1</sup> Private Practice, 40212 Düsseldorf, Germany; kaikisielinski@yahoo.de
- <sup>2</sup> Private Practice, 22763 Hamburg, Germany; pgiboni@gmx.de
- <sup>3</sup> Institute of Molecular and Cellular Anatomy (MOCA), Wendlingweg 2, 52074 Aachen, Germany; aprescher@ukaachen.de
- <sup>4</sup> Institute of Pathology, Dueren Hospital, Roonstrasse 30, 52351 Dueren, Germany; bernd.klosterhalfen@web.de
- <sup>5</sup> Institute of Neuroscience and Medicine, Forschungszentrum Jülich, 52425 Jülich, Germany; d.graessel@fz-juelich.de
- <sup>6</sup> Private Practice, 47803 Krefeld, Germany; dr\_funken@colita.net
- <sup>7</sup> Institute of Neurosurgical Pathophysiology, University Medical Centre of the Johannes Gutenberg University of Mainz Langenbeckstr. 1, 55131 Mainz, Germany; oliver.kempski@unimedizin-mainz.de
- <sup>8</sup> Department of Psychology, FOM University of Applied Sciences, 57078 Siegen, Germany
- Correspondence: oliver.hirsch@fom.de

**Abstract:** Many countries introduced the requirement to wear masks in public spaces for containing SARS-CoV-2 making it commonplace in 2020. Up until now, there has been no comprehensive investigation as to the adverse health effects masks can cause. The aim was to find, test, evaluate and compile scientifically proven related side effects of wearing masks. For a quantitative evaluation, 44 mostly experimental studies were referenced, and for a substantive evaluation, 65 publications were found. The literature revealed relevant adverse effects of masks in numerous disciplines. In this paper, we refer to the psychological and physical deterioration as well as multiple symptoms described because of their consistent, recurrent and uniform presentation from different disciplines as a Mask-Induced Exhaustion Syndrome (MIES). We objectified evaluation evidenced changes in respiratory physiology of mask wearers with significant correlation of O<sub>2</sub> drop and fatigue (p < 0.05), a clustered co-occurrence of respiratory impairment and O<sub>2</sub> drop (67%), N95 mask and CO<sub>2</sub> rise (82%), N95 mask and O<sub>2</sub> drop (72%), N95 mask and headache (60%), respiratory impairment and temperature rise (88%), but also temperature rise and moisture (100%) under the masks. Extended mask-wearing by the general population could lead to relevant effects and consequences in many medical fields.

**Keywords:** personal protective equipment; masks; N95 face mask; surgical mask; risk; adverse effects; long-term adverse effects; contraindications; health risk assessment; hypercapnia; hypoxia; headache; dyspnea; physical exertion; MIES syndrome

## 1. Introduction

At the beginning of the spread of the novel pathogen SARS-CoV-2, it was necessary to make far-reaching decisions even without available explicit scientific data. The initial assumption was that the pandemic emergency measures were set in place to reduce the acute threat of the public health system effectively and swiftly.

In April 2020, the World Health Organization (WHO) recommended the use of masks only for symptomatic, ill individuals and health care workers and did not recommend its widespread use.



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In June 2020, they changed this recommendation to endorse the general use of masks in, e.g., crowded places [1,2]. In a meta-analysis study commissioned by the WHO (evidence level Ia), no clear, scientifically graspable benefit of moderate or strong evidence was derived from wearing masks [3].

While maintaining a distance of at least one meter showed moderate evidence with regard to the spreading of SARS-CoV-2, only weak evidence at best could be found for masks alone in everyday use (non-medical setting) [3]. Another meta-analysis conducted in the same year confirmed the weak scientific evidence for masks [4].

Accordingly, the WHO did not recommend general or uncritical use of masks for the general population and expanded its risk and hazard list within just two months. While the April 2020 guideline highlighted the dangers of self-contamination, possible breathing difficulties and false sense of security, the June 2020 guideline found additional potential adverse effects such as headache, development of facial skin lesions, irritant dermatitis, acne or increased risk of contamination in public spaces due to improper mask disposal [1,2].

However, under pressure from increasing absolute numbers of positive SARS-CoV-2 tests, many prescribers further extended mask-wearing according to certain times and situations, always justified by the desire to limit the spread of the virus [5]. The media, numerous institutions and most of the population supported this approach.

Among the medical profession and scientists, the users and observers of medical devices, there have been simultaneous calls for a more nuanced approach [6–8]. While there has been a controversial scientific discussion worldwide about the benefits and risks of masks in public spaces, they became the new social appearance in everyday life in many countries at the same time.

Although there seems to be a consensus among the decision makers who have introduced mandatory masks that medical exemptions are warranted, it is ultimately the responsibility of individual clinicians to weigh up when to recommend exemption from mandatory masks. Physicians are in a conflict of interest concerning this matter. On the one hand, doctors have a leading role in supporting the authorities in the fight against a pandemic. On the other hand, doctors must, in accordance with the medical ethos, protect the interests, welfare and rights of their patient's third parties with the necessary care and in accordance with the recognized state of medical knowledge [9–11].

A careful risk-benefit analysis is becoming increasingly relevant for patients and their practitioners regarding the potential long-term effects of masks. The lack of knowledge of legal legitimacy on the one hand and of the medical scientific facts on the other is a reason for uncertainty among clinically active colleagues.

The aim of this paper is to provide a first, rapid, scientific presentation of the risks of general mandatory mask use by focusing on the possible adverse medical effects of masks, especially in certain diagnostic, patient and user groups.

#### 2. Materials and Methods

The objective was to search for documented adverse effects and risks of different types of mouth–nose-covering masks. Of interest here were, on the one hand, readymade and self-manufactured fabric masks, including so-called community masks and, on the other hand medical, surgical and N95 masks (FFP2 masks).

Our approach of limiting the focus to negative effects seems surprising at first glance. However, such an approach helps toprovide us with more information. This methodology is in line with the strategy of Villalonga-Olives and Kawachi, who also conducted a review exclusively on the negative effects [12].

For an analysis of the literature, we defined the risk of mouth–nose protection as the description of symptoms or the negative effects of masks. Reviews and expert presentations from which no measurable values could be extracted, but which clearly present the research situation and describe negative effects, also fulfill this criterion.

Additionally, we defined the quantifiable, negative effect of masks as the presentation of a measured, statistically significant change in a physiological parameter in a pathological direction (p < 0.05), a statistically significant detection of symptoms (p < 0.05) or the occurrence of symptoms in at least 50% of those examined in a sample ( $n \ge 50\%$ ).

Up to and including 31 October 2020, we conducted a database search in PubMed/MEDLINE on scientific studies and publications on adverse effects and risks of different types of mouth–nose-covering masks according to the criteria mentioned above (see Figure 1: Review flowchart). Terms searched were "face masks", "surgical mask" and "N95" in combination with the terms "risk" and "adverse effects" as well as "side effects". The selection criteria of the papers were based on our above definition of risk and adverse effect of masks. Mainly English- and German-language publications of evidence levels I to III according to the recommendations of the Agency for Healthcare Research and Quality (AHQR) that were not older than 20 years at the time of the review were considered. The evaluation also excluded level IV evidence, such as case reports and irrelevant letters to the editor that exclusively reflect opinions without scientific evidence.



Figure 1. Scoping review flow diagram according to the PRISMA scheme.

After excluding 1113 papers that were irrelevant to the research question and did not meet the criteria mentioned (quantifiable, negative effects of masks, description of symptoms or the negative effects of masks), a total of 109 relevant publications were found for evaluation in the context of our scoping review (see Figure 1: Flow chart).

Sixty-five relevant publications concerning masks were considered being within the scope of the content-related evaluation. These included 14 reviews and 2 meta-analyses from the primary research. For the quantitative evaluation, 44 presentations of nega-

tive effects from the years 2004 to 2020 were eligible. Thirty-one of these studies were experimental (70%), and 13 studies were data collection studies in the sense of simple observational studies, especially in the dermatological field (30%). The observed study parameters and significant results from these 44 publications (p < 0.05 or  $n \ge 50\%$ ) were compiled in an overall display (Figure 2). Based on this data, a correlation analysis of the observed mask effects was performed. This included a correlation calculation of the recorded symptoms and physiological changes (for nominally scaled, dichotomous variables according to Fisher using R, R Foundation for Statistical Computing, Vienna, Austria, version 4.0.2).

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significantly measured mask- induced changes in scientific studies 2004-2020: • = p<0.05 • = n250 %	Fabric Mask	Surgical Mask	N95-Mask	021	co21	Humidity↑	Temperature	Breathing Resistance <sup>†</sup>	Respiratory Rate†	Blood Pressure1	Cerebral Vasodilation	Heart Rate†	Respiratory impairment	Exhaustion & Fatigue	Drowsiness	Dizziness	Headache	Psycho-vegetative Effect	Decrease in Empathy	Itch	Skin Imitation	Acne	Rhinitis	Voice Disorder	False Sense of Security	Bacterial Contamination	Fungal Contamination	Viral Conatmination
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**Figure 2.** Overview including all 44 considered studies with quantified, significant adverse effects of masks (black dots and black rectangles). Not all studies examined each mentioned parameter, as focused or subject-related questions were often in the foreground. Gray fields correspond to a lack of coverage in the primary studies, white fields represent measured effects. We found an often combination of significant chemical, physical, physiological parameters and complaints. Drowsiness summarizes the symptom for any qualitative neurological deficits described in the scientific literature examined.

In addition, another 64 publications with a neighboring range of topics were consulted in connection with the mask effects we found. These included declarations, guidelines and legal principles. In order to expand the amount of data for the discussion, we proceeded according to the "snowball principle" by locating citations of selected papers in the bibliographies and including them where appropriate.

Since the findings from the topics presented for discussion were to an unexpected degree subject-related, we decided to divide the results according to the fields of medicine. Of course, there are overlaps between the respective fields, which we point out in detail.

#### 3. Results

A total of 65 scientific papers on masks qualified for a purely content-based evaluation. These included 14 reviews and two meta-analyses.

Of the mathematically evaluable, groundbreaking 44 papers with significant negative mask effects (p < 0.05 or  $n \ge 50\%$ ), 22 were published in 2020 (50%), and 22 were published before the COVID-19 pandemic. Of these 44 publications, 31 (70%) were of experimental nature, and the remainder were observational studies (30%). Most of the publications in question were English (98%). Thirty papers referred to surgical masks (68%), 30 publications related to N95 masks (68%), and only 10 studies pertained to fabric masks (23%).

Despite the differences between the primary studies, we were able to demonstrate a statistically significant correlation in the quantitative analysis between the negative side effects of blood-oxygen depletion and fatigue in mask wearers with p = 0.0454.

In addition, we found a mathematically grouped common appearance of statistically significant confirmed effects of masks in the primary studies (p < 0.05 and  $n \ge 50\%$ ) as shown in Figure 2. In nine of the 11 scientific papers (82%), we found a combined onset of N95 respiratory protection and carbon dioxide rise when wearing a mask. We found a similar result for the decrease in oxygen saturation and respiratory impairment with synchronous evidence in six of the nine relevant studies (67%). N95 masks were associated with headaches in six of the 10 studies (60%). For oxygen deprivation under N95 respiratory protectors, we found a common occurrence in eight of 11 primary studies (72%). Skin temperature rise under masks was associated with fatigue in 50% (three out of six primary studies). The dual occurrence of the physical parameter temperature rise and respiratory impairment was found in seven of the eight studies (88%). A combined occurrence of the physical parameters temperature rise and humidity/moisture under the mask was found in 100% within six of six studies, with significant readings of these parameters (Figure 2).

The literature review confirms that relevant, undesired medical, organ and organ system-related phenomena accompanied by wearing masks occur in the fields of internal medicine (at least 11 publications, Section 3.2). The list covers neurology (seven publications, Section 3.3), psychology (more than 10 publications, Section 3.4), psychiatry (three publications, Section 3.5), gynecology (three publications, Section 3.6), dermatology (at least 10 publications, Section 3.7), ENT medicine (four publications, Section 3.8), dentistry (one publication, Section 3.8), sports medicine (four publications, Section 3.9), sociology (more than five publications, Section 3.10), occupational medicine (more than 14 publications, Section 3.11), microbiology (at least four publications, Section 3.12), epidemiology (more than 16 publications, Section 3.13), and pediatrics (four publications, Section 3.14) as well as environmental medicine (four publications, Section 3.15).

We will present the general physiological effects as a basis for all disciplines. This will be followed by a description of the results from the different medical fields of expertise and closing off with pediatrics the final paragraph.

#### 3.1. General Physiological and Pathophysiological Effects for the Wearer

As early as 2005, an experimental dissertation (randomized crossover study) demonstrated that wearing surgical masks in healthy medical personnel (15 subjects, 18–40 years old) leads to measurable physical effects with elevated transcutaneous carbon dioxide values after 30 min [13]. The role of dead space volume and CO<sub>2</sub> retention as a cause of the significant change (p < 0.05) in blood gases on the way to hypercapnia, which was still within the limits, was discussed in this article. Masks expand the natural dead space (nose, throat, trachea, bronchi) outwards and beyond the mouth and nose.

An experimental increase in the dead space volume during breathing increases carbon dioxide (CO<sub>2</sub>) retention at rest and under exertion and correspondingly the carbon dioxide partial pressure pCO<sub>2</sub> in the blood (p < 0.05) [14].

As well as addressing the increased rebreathing of carbon dioxide ( $CO_2$ ) due to the dead space, scientists also debate the influence of the increased breathing resistance when using masks [15–17].

According to the scientific data, mask wearers as a whole show a striking frequency of typical, measurable, physiological changes associated with masks.

In a recent intervention study conducted on eight subjects, measurements of the gas content for oxygen (measured in  $O_2$  Vol%) and carbon dioxide (measured in  $CO_2$  ppm) in the air under a mask showed a lower oxygen availability even at rest than without a mask. A Multi-Rae gas analyzer was used for the measurements (RaeSystems<sup>®</sup>) (Sunnyvale, California CA, United States). At the time of the study, the device was the most advanced portable multivariant real-time gas analyzer. It is also used in rescue medicine and operational emergencies. The absolute concentration of oxygen ( $O_2$  Vol%) in the air under the masks was significantly lower (minus 12.4 Vol%  $O_2$  in absolute terms, statistically significant with *p* < 0.001) at 18.3% compared to 20.9% room air concentration. Simultaneously, a health-critical value of carbon dioxide concentration ( $CO_2$  Vol%) increased by a factor of 30 compared to normal room air was measured (ppm with mask versus 464 ppm without mask, statistically significant with *p* < 0.001) [18].

These phenomena are responsible for a statistically significant increase in carbon dioxide (CO<sub>2</sub>) blood content in mask wearers [19,20], on the one hand, measured transcutaneously via an increased PtcCO<sub>2</sub> value [15,17,19,21,22], on the other hand, via end-expiratory partial pressure of carbon dioxide (PETCO<sub>2</sub>) [23,24] or, respectively, the arterial partial pressure of carbon dioxide (PaCO<sub>2</sub>) [25].

In addition to the increase in the wearer's blood carbon dioxide (CO<sub>2</sub>) levels (p < 0.05) [13,15,17,19,21–28], another consequence of masks that has often been experimentally proven is a statistically significant drop in blood oxygen saturation (SpO<sub>2</sub>) (p < 0.05) [18,19,21,23,29–34]. A drop in blood oxygen partial pressure (PaO<sub>2</sub>) with the effect of an accompanying increase in heart rate (p < 0.05) [15,23,29,30,34] as well as an increase in respiratory rate (p < 0.05) [15,21,23,35,36] have been proven.

A statistically significant measurable increase in pulse rate (p < 0.05) and decrease in oxygen saturation SpO<sub>2</sub> after the first (p < 0.01) and second hour (p < 0.0001) under a disposable mask (surgical mask) were reported by researchers in a mask intervention study they conducted on 53 employed neurosurgeons [30].

In another experimental study (comparative study), surgical and N95 masks caused a significant increase in heart rate (p < 0.01) as well as a corresponding feeling of exhaustion (p < 0.05). These symptoms were accompanied by a sensation of heat (p < 0.0001) and itching (p < 0.01) due to moisture penetration of the masks (p < 0.0001) in 10 healthy volunteers of both sexes after only 90 min of physical activity [35]. Moisture penetration was determined via sensors by evaluating logs (SCXI-1461, National Instruments, Austin, TX, USA).

These phenomena were reproduced in another experiment on 20 healthy subjects wearing surgical masks. The masked subjects showed statistically significant increases in heart rate (p < 0.001) and respiratory rate (p < 0.02) accompanied by a significant measurable increase in transcutaneous carbon dioxide PtcCO<sub>2</sub> (p < 0.0006). They also complained of breathing difficulties during the exercise [15].

The increased rebreathing of carbon dioxide (CO<sub>2</sub>) from the enlarged dead space volume in mask wearers can reflectively trigger increased respiratory activity with increased muscular work as well as the resulting additional oxygen demand and oxygen consumption [17]. This is a reaction to pathological changes in the sense of an adaptation effect. A mask-induced drop in blood oxygen saturation value (SpO<sub>2</sub>) [30] or the blood

oxygen partial pressure (PaO<sub>2</sub>) [34] can in turn additionally intensify subjective chest complaints [25,34].

The documented mask-induced changes in blood gases towards hypercapnia (increased carbon dioxide/CO<sub>2</sub> blood levels) and hypoxia (decreased oxygen/O<sub>2</sub> blood levels) may result in additional nonphysical effects such as confusion, decreased thinking ability and disorientation [23,36–39], including overall impaired cognitive abilities and decrease in psychomotoric abilities [19,32,38–41]. This highlights the importance of changes in blood gas parameters ( $O_2$  and  $CO_2$ ) as a cause of clinically relevant psychological and neurological effects. The above parameters and effects (oxygen saturation, carbon dioxide content, cognitive abilities) were measured in a study on saturation sensors (Semi-Tec AG, Therwil, Switzerland), using a Borg Rating Scale, Frank Scale, Roberge Respirator Comfort Scale and Roberge Subjective Symptoms-during-Work Scale, as well as with a Likert scale [19]. In the other main study, conventional ECG, capnography and symptom questionnaires were used in measuring carbon dioxide levels, pulse and cognitive abilities [23]. Other physiological data collection was done with pulse oximeters (Allegiance, MCGaw, USA), subjective complaints were assessed with a 5-point Likert scale and motoric speed was recorded with linear-position transducers (Tendo-Fitrodyne, Sport Machins, Trencin, Slovakia) [32]. Some researchers used standardized, anonymized questionnaires to collect data on subjective complaints associated with masks [37].

In an experimental setting with different mask types (community, surgical, N95) a significant increase in heart rate (p < 0.04), a decrease in oxygen saturation SpO<sub>2</sub> (p < 0.05) with an increase in skin temperature under the mask (face) and difficulty of breathing (p < 0.002) were recorded in 12 healthy young subjects (students). In addition, the investigators observed dizziness (p < 0.03), listlessness (p < 0.05), impaired thinking (p < 0.03) and concentration problems (p < 0.02), which were also statistically significant when wearing masks [29].

According to other researchers and their publications, masks also interfere with temperature regulation, impair the field of vision and of non-verbal and verbal communication [15,17,19,36,37,42–45].

The above-mentioned measurable and qualitative physiological effects of masks can have implications in various areas of expertise in medicine.

It is known from pathology that not only supra-threshold stimuli exceeding normal limits have disease-relevant consequences. Subthreshold stimuli are also capable of causing pathological changes if the exposure time is long enough. Examples occur from the slightest air pollution by hydrogen sulfide resulting in respiratory problems (throat irritation, coughing, reduced absorption of oxygen) and neurological diseases (headaches, dizziness) [46]. Furthermore, subthreshold but prolonged exposure to nitrogen oxides and particulate matter is associated with an increased risk of asthma, hospitalization and higher overall mortality [47,48]. Low concentrations of pesticides are also associated with disease-relevant consequences for humans such as mutations, development of cancer and neurological disorders [49]. Likewise, the chronic subthreshold intake of arsenic is associated with an increased risk of cancer [50], subthreshold intake of cadmium with the promotion of heart failure [51], subthreshold intake of lead is associated with hypertension, renal metabolic disorders and cognitive impairment [52] or subthreshold intake of mercury with immune deficiency and neurological disorders [53]. Subliminal UV radiation exposure over long periods is also known to cause mutation-promoting carcinogenic effects (especially white skin cancer) [54].

The mask-induced adverse changes are relatively minor at first glance, but repeated exposure over longer periods in accordance with the above-mentioned pathogenetic principle is relevant. Long-term disease-relevant consequences of masks are to be expected. Insofar, the statistically significant results found in the studies with mathematically tangible differences between mask wearers and people without masks are clinically relevant. They give an indication that with correspondingly repeated and prolonged exposure to physical, chemical, biological, physiological and psychological conditions, some of which are subliminal, but which are significantly shifted towards pathological areas, health-reducing changes and clinical pictures can develop such as high blood pressure and arteriosclerosis, including coronary heart disease (metabolic syndrome) as well as neurological diseases. For small increases in carbon dioxide in the inhaled air, this disease-promoting effect has been proven with the creation of headaches, irritation of the respiratory tract up to asthma as well as an increase in blood pressure and heart rate with vascular damage and, finally, neuropathological and cardiovascular consequences [38]. Even slightly but persistently increased heart rates encourage oxidative stress with endothelial dysfunction, via increased inflammatory messengers, and finally, the stimulation of arteriosclerosis of the blood vessels has been proven [55]. A similar effect with the stimulation of high blood pressure, cardiac dysfunction and damage to blood vessels supplying the brain is suggested for slightly increased breathing rates over long periods [56,57]. Masks are responsible for the aforementioned physiological changes with rises in inhaled carbon dioxide [18–28], small sustained increases in heart rate [15,23,29,30,35] and mild but sustained increases in respiratory rates [15,21,23,34,36].

For a better understanding of the side effects and dangers of masks presented in this literature review, it is possible to refer to well-known principles of respiratory physiology (Figure 3).

The average dead space volume during breathing in adults is approximately 150–180 mL and is significantly increased when wearing a mask covering the mouth and nose [58]. With an N95 mask, for example, the dead space volume of approximately 98–168 mL was determined in an experimental study [59]. This corresponds to a mask-related dead space increase of approximately 65 to 112% for adults and, thus, almost a doubling. At a respiratory rate of 12 per minute, the pendulum volume respiration with such a mask would, thus, be at least 2.9–3.8 L per minute. Therefore, the dead space amassed by the mask causes a relative reduction in the gas exchange volume available to the lungs per breath by 37% [60]. This largely explains the impairment of respiratory physiology reported in our work and the resulting side effects of all types of masks in everyday use in healthy and sick people (increase in respiratory rate, increase in heart rate, decrease in oxygen saturation, increase in carbon dioxide partial pressure, fatigue, headaches, dizziness, impaired thinking, etc.) [36,58].

In addition to the effect of increased dead space volume breathing, however, mask-related breathing resistance is also of exceptional importance (Figure 3) [23,36].

Experiments show an increase in airway resistance by a remarkable 126% on inhalation and 122% on exhalation with an N95 mask [60]. Experimental studies have also shown that moisturization of the mask (N95) increases the breathing resistance by a further 3% [61] and can, thus, increase the airway resistance up to 2.3 times the normal value.

This clearly shows the importance of the airway resistance of a mask. Here, the mask acts as a disturbance factor in breathing and makes the observed compensatory reactions with an increase in breathing frequency and simultaneous feeling of breathlessness plausible (increased work of the respiratory muscles). This extra strain due to the amplified work of breathing against bigger resistance caused by the masks also leads to intensified exhaustion with a rise in heart rate and increased CO<sub>2</sub> production. Fittingly, in our review of the studies on side effects of masks (Figure 2), we also found a percentage clustering of significant respiratory impairment and a significant drop in oxygen saturation (in about 75% of all study results).

In the evaluation of the primary papers, we also determined a statically significant correlation of the drop in oxygen saturation (SpO<sub>2</sub>) and fatigue with a common occurrence in 58% of the mask use studies with significant results (Figure 2, p < 0.05).



**Figure 3.** Pathophysiology of the mask (important physical and chemical effects): Illustration of the breathing resistance\* and of the dead space volume of an N95 mask in an adult. When breathing, there is an overall significantly reduced possible gas exchange volume of the lungs of minus 37% caused by the mask (Lee 2011) [60] according to a decrease in breathing depth and volume due to the greater breathing resistance of plus128%\* (exertion when inhaling greater than when exhaling) and due to the increased dead space volume of plus80%\*\*, which does not participate directly in the gas exchange and is being only partially mixed with the environment. (\* = averaged inspiration and expiration according to Lee 2011 [60] including moisture penetration according to Roberge 2010 [61], \*\* = averaged values according to Xu 2015 [59]).

#### 3.2. Internistic Side Effects and Dangers

As early as 2012, an experiment showed that walking in the 20 masked subjects compared to the identical activity without masks significantly increased heart rates (average +9.4 beats per minute, p < 0.001) and breathing rates (p < 0.02). These physiological changes were accompanied by transcutaneous significantly measurable increased transcutaneous carbon dioxide (PtcCO<sub>2</sub>) levels (p < 0.0006) as well as respiratory difficulties in the mask wearers compared to the control group [15].

In a recent experimental comparative study from 2020, 12 healthy volunteers under surgical masks as well as under N95 masks experienced measurable impairments in the measured lung function parameters as well as cardiopulmonary capacity (lower maximum blood lactate response) during moderate to heavy physical exertion compared to exertion without masks (p < 0.001) [31]. The mask-induced increased airway resistance led to increased respiratory work with increased oxygen consumption and demand, both of the respiratory muscles and the heart. Breathing was significantly impeded (p < 0.001) and participants reported mild pain. The scientists concluded from their results that the cardiac compensation of the pulmonary, mask-induced restrictions, which still functioned in healthy people, was probably no longer possible in patients with reduced cardiac output [31].

In another recent study, researchers tested fabric masks (community masks), surgical masks and FFP2/N95 masks in 26 healthy people during exercise on a cycle ergometer. All

masks also showed a measurable carbon dioxide (CO<sub>2</sub>) retention (PtcCO<sub>2</sub>) (statistically significant with p < 0.001) and, for N95 masks, a decrease in the oxygen saturation value SpO<sub>2</sub> (statistically significant at 75 and 100 W with p < 0.02 and p < 0.005, respectively). The clinical relevance of these changes was shown in an increase in breathing frequency with fabric masks (p < 0.04) as well as in the occurrence of the previously described mask-specific complaints such as a feeling of heat, shortness of breath and headaches. The stress perception was recorded on a Borg scale from 1 to 20. During physical exertion under an N95 mask, the group with masks showed a significant increase in the feeling of exhaustion compared to the group without with 14.6 versus 11.9 on the scale of 20. During the exposure, 14 of the 24 subjects wearing masks complained of shortness of breath (58%), four of headaches and two of a feeling of heat. Most of the complaints concerned FFP2 masks (72%) [21].

The aforementioned physiological and subjective physical effects of masks on healthy people at rest and under exertion [21,31] give an indication of the effect of masks on sick and elderly people even without exertion.

In an observational study of ten 20 to 50 year-old nurses wearing N95 masks during their shift work, side effects such as breathing difficulties ("I can't breathe"), feelings of exhaustion, headache (p < 0.001), drowsiness (p < 0.001) and a decrease in oxygen saturation SpO<sub>2</sub> (p < 0.05) as well as an increase in heart rate (p < 0.001) were statistically significant in association with an increase in obesity (BMI) [19]. The occurrence of symptoms under masks was also associated with older age (statistically significant correlation of fatigue and drowsiness with p < 0.01 each, nausea with p < 0.05, an increase in blood pressure with p < 0.01, headache with p < 0.05, breathing difficulties with p < 0.001) [19].

In an intervention study involving 97 patients with advanced chronic obstructive pulmonary disease (COPD) the respiratory rate, oxygen saturation and exhaled carbon dioxide equivalents (capnometry) changed unfavorably and significantly after the use of N95 masks (FFP2 equivalent) with an initial 10-minute rest and subsequent 6-minute walking. Seven patients discontinued the experiment due to serious complaints with a decrease in the oxygen saturation value  $SpO_2$  and a pathological carbon dioxide ( $CO_2$ ) retention as well as increased end-expiratory partial pressure of carbon dioxide (PETCO<sub>2</sub>) [23]. In two patients, the PETCO<sub>2</sub> exceeded the normal limits and reached values of >50 mmHg. An FEV1 < 30% and a modified Medical Research Council (mMRC) Dyspnea Scale Score of  $\geq$  3, both indicators of advanced COPD, correlated with mask intolerance overall in this study. The most common symptom under mask was breathlessness at 86%. In the dropouts of the study, dizziness (57%) and headaches were also often recorded. In the mask-tolerant COPD patients, significant increases in heart rate, respiratory rate and end-expiratory carbon dioxide partial pressure PETCO<sub>2</sub> could be objectified even at rest, after only 10 min of mask-wearing (p < 0.001), accompanied by a decrease in oxygen saturation SpO<sub>2</sub> (p < 0.001) [23]. The results of this study with an evidence level IIa are indicative for COPD mask wearers.

In another retrospective comparative study on COPD and surgical masks, examiners were able to demonstrate statistically an increase in arterial partial pressure of carbon dioxide (PaCO<sub>2</sub>) of approximately +8 mmHg (p < 0.005) and a concomitant mask-related increase in systolic blood pressure of +11 mmHg (p < 0.02) [25]. This increase is relevant in hypertensive patients, but also in healthy people with borderline blood pressure values as pathological value range triggered by mask-wearing can be induced.

In 39 hemodialysis patients with end-stage renal disease, a type N95 mask (FFP2 equivalent) caused a significant drop in blood oxygen partial pressure (PaO<sub>2</sub>) in 70% of patients at rest (on hemodialysis) within only 4 h (p = 0.006). Despite a compensatory increased respiratory rate (p < 0.001), malaise with chest pain occurred (p < 0.001) and even resulted in hypoxemia (drop in oxygen below the normal limit) in 19% of the subjects [34]. The researchers concluded from their findings that elderly or patients with reduced cardiopulmonary function have a higher risk of developing a severe respiratory failure while wearing a mask [34].

In a review paper on the risks and benefits of masks worn during the COVID-19 crisis, other authors provide an equally critical assessment of mandatory mask use for patients with pneumonia, both with and without COVID-19 pneumonia disease [16].

#### 3.3. Neurological Side Effects and Dangers

In a scientific evaluation of syncope in the operating theatre, 36 of 77 affected persons (47%) were associated with wearing a mask [62]. However, other factors could not be ruled out as contributory causes.

In their level III evidence review, neurologists from Israel, the UK and the USA state that a mask is unsuitable for epileptics because it can trigger hyperventilation [63]. The use of a mask significantly increases the respiratory rate by about plus 15 to 20% [15,21,23,34,64]. However, an increase in breathing frequency leading to hyperventilation is known to be used for provocation in the diagnosis of epilepsy and causes seizure-equivalent EEG changes in 80% of patients with generalized epilepsy and in up to 28% of focal epileptics [65].

Physicians from New York studied the effects of wearing masks of the surgical-type mask and N95 among medical personnel in a sample of 343 participants (surveyed using standardized, anonymized questionnaires). Wearing the masks caused detectable physical adverse effects such as impaired cognition (24% of wearers) and headaches in 71.4% of the participants. Of these, 28% persisted and required medication. Headache occurred in 15.2% under 1 h of wear, in 30.6% after 1 h of wear and in 29.7% after 3 h of wear. Thus, the effect intensified with increasing wearing time [37].

Confusion, disorientation and even drowsiness (Likert scale questionnaire) and reduced motoric abilities (measured with a linear position transducer) with reduced reactivity and overall impaired performance (measured with the Roberge Subjective Symptomsduring-Work Scale) as a result of mask use have also been documented in other studies [19,23,29,32,36,37].

The scientists explain these neurological impairments with a mask-induced latent drop in blood gas oxygen levels  $O_2$  (towards hypoxia) or a latent increase in blood gas carbon dioxide levels  $CO_2$  (towards hypercapnia) [36]. In view of the scientific data, this connection also appears to be indisputable [38–41].

In a mask experiment from 2020, significant impaired thinking (p < 0.03) and impaired concentration (p < 0.02) were found for all mask types used (fabric, surgical and N95 masks) after only 100 min of wearing the mask [29]. The thought disorders correlated significantly with a drop in oxygen saturation (p < 0.001) during mask use.

Initial headaches (p < 0.05) were experienced by up to 82% of 158, 21–35 year-old mask wearers in another study of N95 respiratory protection with one third (34%) experiencing headaches up to four times daily. Participants wore the mask for 18.3 days over a 30-day period with a mean of 5.9 h per day [66].

Significantly increased headache (p < 0.05) could be observed not only for N95 but also for surgical masks in participants of another observational study of health care workers [67].

In another study, the researchers classified 306 users with an average age of 43 years and wearing different types of masks, of whom 51% had an initial headache as a specific symptom related exclusively to increased surgical and N95 mask use (1 to 4 h, p = 0.008) [68].

Researchers from Singapore were able to demonstrate in a trial involving 154 healthy N95 health service mask wearers that a significant increase in mask-induced blood carbon dioxide levels (measured by end-expiratory partial pressure of carbon dioxide PETCO<sub>2</sub>) and a measurably greater vasodilatation with an increase in cerebral artery flow in the cerebri media resulted. This was associated with headaches in the trial group (p < 0.001) [27].

According to the researchers, the aforementioned changes also contribute to headaches during the prolonged use of masks with a shift towards hypoxia and hypercapnia. Furthermore, stress and mechanical factors such as the irritation of cervical nerves in the neck and head area caused by the tight mask straps pressuring the nerve strands also contribute to headaches [66].

In the analysis of the primary studies, we were able to detect an association between the N95 mask and headaches. In six out of 10 studies, the significant headache appeared in conjunction with the N95 mask (60% of all studies, Figure 2).

#### 3.4. Psychological Side Effects and Dangers

According to an experimental study, wearing surgical masks and N95 masks can also lead to a reduced quality of life owing to reduced cardiopulmonary capacity [31]. Masks, along with causing physiological changes and discomfort with progressive length of use, can also lead to significant discomfort (p < 0.03 to p < 0.0001) and a feeling of exhaustion (p < 0.05 to 0.0001) [69].

Besides the shift in blood gases towards hypercapnia (increase in  $CO_2$ ) and hypoxia (decrease in  $O_2$ ), detailed under general physiological effects (Section 3.1), masks also restrict the cognitive abilities of the individual (measured using a Likert scale survey) accompanied by a decline in psycho-motoric abilities and consequently a reduced responsiveness (measured using a linear position transducer) as well as an overall reduced performance capability (measured with the Roberge Subjective Symptoms-during-Work Scale) [29,32,38,39,41].

The mask also causes an impaired field of vision (especially affecting the ground and obstacles on the ground) and also presents an inhibition to habitual actions such as eating, drinking, touching, scratching and cleaning the otherwise uncovered part of the face, which is consciously and subconsciously perceived as a permanent disturbance, obstruction and restriction [36]. Wearing masks, thus, entails a feeling of deprivation of freedom and loss of autonomy and self-determination, which can lead to suppressed anger and subconscious constant distraction, especially as the wearing of masks is mostly dictated and ordered by others [70,71]. These perceived interferences of integrity, self-determination and autonomy, coupled with discomfort, often contribute to substantial distraction and may ultimately be combined with the physiologically mask-related decline in psychomotoric abilities, reduced responsiveness and an overall impaired cognitive performance. It leads to misjudging situations as well as delayed, incorrect and inappropriate behavior and a decline in the effectiveness of the mask wearer [36,37,39–41].

The use of masks for several hours often causes further detectable adverse effects such as headaches, local acne, mask-associated skin irritation, itching, sensations of heat and dampness, impairments and discomfort predominantly affecting the head and face [19,29,35–37,71–73]. However, the head and face are significant for well-being due to their large representation in the sensitive cerebral cortex (homunculus) [36].

According to a questionnaire survey, masks also frequently cause anxiety and psychovegetative stress reactions in children—as well as in adults—with an increase in psychosomatic and stress-related illnesses and depressive self-experience, reduced participation, social withdrawal and lowered health-related self-care [74]. Over 50% of the mask wearers studied had at least mild depressive feelings [74]. Additional fear-inducing and often exaggerated media coverage can further intensify this. A recent retrospective analysis of the general media in the context of the 2014 Ebola epidemic showed a scientific truth content of only 38% of all publicly published information [75]. Researchers classified a total of 28% of the information as provocative and polarizing and 42% as exaggerating risks. In addition, 72% of the media content aimed to stir up health-related negative feelings. The feeling of fear, combined with insecurity and the primal human need to belong [76], causes a social dynamic that seems partly unfounded from a medical and scientific point of view.

The mask, which originally served purely hygienic purpose, has been transformed into a symbol of conformity and pseudo-solidarity. The WHO, for example, lists the advantages of the use of masks by healthy people in public to include a potentially reduced stigmatization of mask wearers, a sense of contribution to preventing the spread of the virus and a reminder to comply with other measures [2].

## 3.5. Psychiatric Side Effects and Dangers

As explained earlier, masks can cause increased rebreathing with an accumulation of carbon dioxide in the wearer due to increased dead space volume [16–18,20] (Figure 3), with often statistically significant measurable elevated blood carbon dioxide (CO2) levels in sufferers [13,15,17,19–28] (Figure 2). However, changes that lead to hypercapnia are known to trigger panic attacks [77,78]. This makes the significantly measurable increase in CO<sub>2</sub> caused by wearing a mask clinically relevant.

Interestingly, breath provocation tests by inhaling  $CO_2$  are used to differentiate anxiety states in panic disorders and premenstrual dysphoria from other psychiatric clinical pictures. Here, absolute concentrations of 5%  $CO_2$  already suffice to trigger panic reactions within 15–16 min [77]. The normal exhaled air content of  $CO_2$  is about 4%.

It is obvious from experimental studies on masked subjects that concentration changes in the respiratory gases in the above-mentioned range with values above 4% could occur during rebreathing with prolonged mask use [18,23].

The activation of the locus coeruleus by  $CO_2$  is used to generate panic reactions via respiratory gases [78,79]. This is because the locus coeruleus is an important part of the system of vegetative noradrenergic neurons, a control center in the brainstem, which reacts to an appropriate stimulus and changes in the gas concentrations in the blood by releasing the stress hormone noradrenaline [78].

From the physiological, neurological and psychological side effects and dangers described above (Sections 3.1, 3.3 and 3.4), additional problems can be derived for the use of masks in psychiatric cases. People undergoing treatment for dementia, paranoid schizophrenia, personality disorders with anxiety and panic attacks, but also panic disorders with claustrophobic components, are difficult to reconcile with a mask requirement, because even small increases in CO<sub>2</sub> can cause and intensify panic attacks [44,77–79].

According to a psychiatric study, patients with moderate to severe dementia have no understanding of COVID-19 protection measures and have to be persuaded to wear masks constantly [80].

According to a comparative study, patients with schizophrenia have a lower acceptance of mask-wearing (54.9% agreement) than ordinary practice patients (61.6%) [81]. The extent to which mask-wearing can lead to an exacerbation of schizophrenia symptoms has not yet been researched in detail.

When wearing masks, confusion, impaired thinking, disorientation (standardized recording via special rating and Likert scales, p < 0.05) and in some cases a decrease in maximum speed and reaction time (measured with the linear-position transducer, p < 0.05) were observed [19,32,36,38–41]. Psychotropic drugs reduce psycho-motoric functions in psychiatric patients. This can become clinically relevant especially with regard to the further reduced ability to react and the additional increased susceptibility to accidents of such patients when wearing masks.

In order to avoid an unintentional CO<sub>2</sub>-triggered anesthesia [39], fixed and medically sedated patients, without the possibility of continuous monitoring, should not be masked according to the criteria of the Centers for Disease Control and Prevention, USA (CDC). This is because of the possible CO<sub>2</sub> retention described above, as there is a risk of unconsciousness, aspiration and asphyxia [16,17,20,38,82,83].

#### 3.6. Gynaecological Side Effects and Dangers

As a critical variable, a low blood carbon dioxide level in pregnant women is maintained via an increased respiratory minute volume, stimulated by progesterone [22]. For a pregnant woman and her unborn child, there is a metabolic need for a fetal–maternal carbon dioxide ( $CO_2$ ) gradient. The mother's blood carbon dioxide level should always be lower than that of the unborn child in order to ensure the diffusion of  $CO_2$  from the fetal blood into the maternal circulation via the placenta.

Therefore, mask-related phenomena described above (Sections 3.1 and 3.2), such as the measurable changes in respiratory physiology with increased breathing resistance,

increased dead space volume (Figure 3) and the retention of exhaled carbon dioxide ( $CO_2$ ) are of importance. If  $CO_2$  is increasingly rebreathed under masks, this manifestation could, even with subliminal carbon dioxide increases, act as a disturbing variable of the fetal–maternal  $CO_2$  gradient increasing over time of exposure and, thus, develop clinical relevance, also with regard to a reduced compensation reserve of the expectant mothers [20,22,28].

In a comparative study, 22 pregnant women wearing N95 masks during 20 min of exercise showed significantly higher percutaneous  $CO_2$  values, with average PtcCO<sub>2</sub> values of 33.3 mmHg compared to 31.3 mmHg than in 22 pregnant women without masks (p = 0.04) [22]. The heat sensation of the expectant mothers was also significantly increased with masks, with p < 0.001 [22].

Accordingly, in another intervention study, researchers demonstrated that breathing through an N95 mask (FFP2 equivalent) impeded gas exchange in 20 pregnant women at rest and during exercise, causing additional stress on their metabolic system [28]. Thus, under an N95 mask, 20 pregnant women showed a decrease in oxygen uptake capacity VO<sub>2</sub> of about 14% (statistically significant, p = 0.013) and a decrease in carbon dioxide output capacity VCO<sub>2</sub> of about 18% (statistically significant, p = 0.001). Corresponding significant changes in exhaled oxygen and carbon dioxide equivalents were also documented with increases in exhaled carbon dioxide (FeCO<sub>2</sub>) (p < 0.001) and decreases in exhaled oxygen (FeO<sub>2</sub>) (p < 0.001), which were explained by an altered metabolism due to respiratory mask obstruction [28].

In experiments with predominantly short mask application times, neither the mothers nor the fetuses showed statistically significant increases in heart rates or changes in respiratory rates and oxygen saturation values. However, the exact effects of prolonged mask use in pregnant women remain unclear overall. Therefore, in pregnant women, extended use of surgical and N95 masks is viewed critically [20].

In addition, it is unclear whether the substances contained in industrially manufactured masks that can be inhaled over longer periods of time (e.g., formaldehyde as an ingredient of the textile and thiram as an ingredient of the ear bands) are teratogenic [20,84].

## 3.7. Dermatological Side Effects and Dangers

Unlike garments worn over closed skin, masks cover body areas close to the mouth and nose, i.e., body parts that are involved with respiration.

Inevitably, this leads not only to a measurable temperature rise [15,44,85], but also to a severe increase in humidity due to condensation of the exhaled air, which in turn changes the natural skin milieu considerably of perioral and perinasal areas [36,61,82]. It also increases the redness, pH-value, fluid loss through the skin epithelium, increased hydration and sebum production measurably [73]. Preexisting skin diseases are not only perpetuated by these changes, but also exacerbated. In general, the skin becomes more susceptible to infections and acne.

The authors of an experimental study were able to prove a disturbed barrier function of the skin after only 4 h of wearing a mask in 20 healthy volunteers, both for surgical masks and for N95 masks [73]. In addition, germs (bacteria, fungi and viruses) accumulate on the outside and inside of the masks due to the warm and moist environment [86–89]. They can cause clinically relevant fungal, bacterial or viral infections. The unusual increase in the detection of rhinoviruses in the sentinel studies of the German Robert Koch Institute (RKI) from 2020 [90] could be another indication of this phenomenon.

In addition, a region of the skin that is not evolutionarily adapted to such stimuli is subjected to increased mechanical stress. All in all, the above-mentioned facts cause the unfavorable dermatological effects with mask related adverse skin reactions like acne, rashes on the face and itch symptoms [91].

A Chinese research group reported skin irritation and itching when using N95 masks among 542 test participants and also a correlation between the skin damage that occurred and the time of exposure (68.9% at  $\leq 6$  h/day and 81.7% at >6 h/day) [92].

A New York study evaluated in a random sample of 343 participants the effects of frequent wearing of surgical mask type and N95 masks among healthcare workers during the COVID-19 pandemic. Wearing the masks caused headache in 71.4% of participants, in addition to drowsiness in 23.6%, detectable skin damage in 51% and acne in 53% of mask users [37].

On the one hand, direct mechanical skin lesions occur on the nose and cheekbones due to shear force, especially when masks are frequently put on and taken off [37,92].

On the other hand, masks create an unnaturally moist and warm local skin environment [29,36,82]. In fact, scientists were able to demonstrate a significant increase in humidity and temperature in the covered facial area in another study in which the test individuals wore masks for one hour [85]. The relative humidity under the masks was measured with a sensor (Atmo-Tube, San Francisco, CA, USA). The sensation of humidity and temperature in the facial area is more crucial for well-being than other body regions [36,44]. This can increase discomfort under the masks. In addition, the increase in temperature favors bacterial optimization.

The pressure of the masks also causes an obstruction of the flow physiology of lymph and blood vessels in the face, with the consequence of increased disturbance of skin function [73] and ultimately also contributing to acne in up to 53% of all wearers and other skin irritations in up to 51% of all wearers [36,37,82].

Other researchers examined 322 participants with N95 masks in an observational study and detected acne in up to 59.6% of them, itching in 51.4% and redness in 35.8% as side effects [72].

In up to 19.6% (273) of the 1393 wearers of different masks (community masks, surgical, N95 masks), itching could be objectified in one study, in 9% even severely. An atopic predisposition (allergy tendency) correlated with the risk of itching. The length of use was significantly related to the risk of itching (p < 0.0001) [93].

In another dermatological study from 2020, 96.9% of 876 users of all mask types (community masks, surgical masks, N95 masks) confirmed adverse problems with a significant increase in itching (7.7%), accompanied by fogging-up of glasses (21.3%), flushing (21.3%), slurred speech (12.3%) and difficulty breathing (35.9%) (p < 0.01) [71].

Apart from an increased incidence of acne [37,72,91] under masks, contact eczema and urticaria [94] are generally described in connection with hypersensitivities to ingredients of the industrially manufactured masks (surgical mask and N95) such as formaldehyde (ingredient of the textile) and thiram (ingredient of the ear bands) [73,84]. The hazardous substance thiram, originally a pesticide and corrosive, is used in the rubber industry as a optimization accelerator. Formaldehyde is a biocide and carcinogen and is used as a disinfectant in the industry.

Even isolated permanent hyperpigmentation as a result of post-inflammatory or pigmented contact dermatitis has been described by dermatologists after prolonged mask use [72,91].

#### 3.8. ENT and Dental Side Effects and Dangers

There are reports from dental communities about negative effects of masks and are accordingly titled "mask mouth" [95]. Provocation of gingivitis (inflammation of the gums), halitosis (bad breath), candidiasis (fungal infestation of the mucous membranes with Candida albicans) and cheilitis (inflammation of the lips), especially of the corners of the mouth, and even plaque and caries are attributed to the excessive and improper use of masks. The main trigger of the oral diseases mentioned is an increased dry mouth due to a reduced saliva flow and increased breathing through the open mouth under the mask. Mouth breathing causes surface dehydration and reduced salivary flow rate (SFR) [95]. Dry mouth is scientifically proven due to mask wear [29]. The bad habit of breathing through the open mouth while wearing a mask seems plausible because such breathing pattern compensates for the increased breathing resistance, especially when inhaling through the masks [60,61]. In turn, the outer skin moisture [71,73,85] with altered

skin flora, which has already been described under dermatological side effects (Section 3.7), is held responsible as an explanation for the inflammation of the lips and corners of the mouth (cheilitis) [95]. This clearly shows the disease-promoting reversal of the natural conditions caused by masks. The physiological internal moisture with external dryness in the oral cavity converts into internal dryness with external moisture.

ENT physicians recently discovered a new form of irritant rhinitis due to N95 mask use in 46 patients. They performed endoscopies and nasal irrigations on mask wearers, which were subsequently assessed pathologically. Clinical problems were recorded with standardized questionnaires. They found statistically significant evidence of mask-induced rhinitis and itching and swelling of the mucous membranes as well as increased sneezing (p < 0.01). Endoscopically, it showed an increased secretion and evidence of inhaled mask polypropylene fibers as the trigger of mucosal irritation [96].

In a study of 221 health care workers, ENT physicians objectified a voice disorder in 33% of mask users. The VHI-10 score of 1 to 10, which measures voice disorders, was on average 5.72 higher in these mask users (statistically significant with p < 0.001). The mask not only acted as an acoustic filter, provoking excessively loud speech, it also seems to trigger impaired vocal cord coordination because the mask compromises the pressure gradients required for undisturbed speech [43]. The researchers concluded from their findings that masks could pose a potential risk of triggering new voice disorders as well as exacerbating existing ones.

#### 3.9. Sports Medicine Side Effects and Dangers

According to the literature, performance-enhancing effects of masks regarding cardiovascular optimization and improvement of oxygen uptake capacity cannot be proven.

For example, in an experimental reference study (12 subjects per group), the training mask that supposedly mimics altitude training (ETM: elevation training mask) only had training effects on the respiratory muscles. However, mask wearers showed significantly lower oxygen saturation values (SpO<sub>2</sub>%) during exercise (SpO<sub>2</sub> of 94% for mask wearers versus 96% for mask-less, p < 0.05) [33], which can be explained by an increased dead space volume and increased resistance during breathing. The measured oxygen saturation values were significantly lower than the normal values in the group of mask wearers, which indicates a clinical relevance.

The proven adaptation effect of the respiratory muscles in healthy athletes [33] clearly suggests that masks have a disruptive effect on respiratory physiology.

In another intervention study on mask use in weightlifters, researchers documented statistically significant effects of reduced attention (questionnaire recording, Likert scale) and a slowed maximum speed of movement detectable by means of sensors (both significant at p < 0.001), leading the researchers to conclude that mask use in sport is not without risks. As a secondary finding, they also detected a significant decrease in oxygen saturation SpO<sub>2</sub> when performing special weight-lifting exercises ("back squats") in the mask group after only 1 min of exercise compared to the mask-free group (p < 0.001) [32]. The proven tendency of the masks to shift the chemical parameter oxygen saturation SpO<sub>2</sub> in a pathological direction (lower limit value 95%) may well have clinical relevance in untrained or sick individuals.

Sports medicine confirmed an increase in carbon dioxide (CO<sub>2</sub>) retention, with an elevation in CO<sub>2</sub> partial pressure in the blood with larger respiratory dead space volumes [14].

In fact, dead space-induced CO<sub>2</sub> retention while wearing a mask during exercise was also experimentally proven. The effects of a short aerobic exercise under N95 masks were tested on 16 healthy volunteers. A significantly increased end-expiratory partial pressure of carbon dioxide (PETCO<sub>2</sub>) with plus 8 mmHg (p < 0.001) was found [24]. The increase in blood carbon dioxide (CO<sub>2</sub>) in the mask wearers under maximum load was plus 14% CO<sub>2</sub> for surgical masks and plus 23% CO<sub>2</sub> for N95 masks, an effect that may well have clinical relevance in the pre-diseased, elderly and children, as these values strongly approached the pathological range [24].

In an interesting endurance study with eight middle-aged subjects (19–66), the gas content for O<sub>2</sub> and CO<sub>2</sub> under the masks was determined before and after exercise. Even at rest, the oxygen availability under the masks was 13% lower than without the masks and the carbon dioxide (CO<sub>2</sub>) concentration was 30 times higher. Under stress (Ruffier test), the oxygen concentration (% O<sub>2</sub>) below the mask dropped significantly by a further 3.7%, while the carbon dioxide concentration (% CO<sub>2</sub>) increased significantly by a further 20% (statistically significant with *p* < 0.001). Correspondingly, the oxygen saturation of the blood (SpO<sub>2</sub>) of the test persons also decreased significantly from 97.6 to 92.1% (*p* < 0.02) [18]. The drop in the oxygen saturation value (SpO<sub>2</sub>) to 92%, clearly below the normal limit of 95%, is to be classified as clinically relevant and detrimental to health.

These facts are an indication that the use of masks also triggers the effects described above leading to hypoxia and hypercapnia in sports. Accordingly, the WHO and Centers for Disease Control and Prevention, GA, USA (CDC) advise against wearing masks during physical exercise [82,97].

## 3.10. Social and Sociological Side Effects and Dangers

The results of a Chilean study with health care workers show that masks act like an acoustic filter and provoke excessively loud speech. This causes a voice disorder [43]. The increased volume of speech also contributes to increased aerosol production by the mask wearer [98]. These experimental data measured with the Aerodynamic Particle Sizer (APS, TSI, model 332, TSI Incorporated, Minnesota, MI, USA) are highly relevant.

Moreover, mask wearers are prevented from interacting normally in everyday life due to impaired clarity of speech [45], which tempts them to get closer to each other.

This results in a distorted prioritization in the general public, which counteracts the recommended measures associated with the COVID-19 pandemic. The WHO prioritizes social distancing and hand hygiene with moderate evidence and recommends wearing a mask with weak evidence, especially in situations where individuals are unable to maintain a physical distance of at least 1 m [3].

The disruption of non-verbal communication due to the loss of facial expression recognition under the mask can increase feelings of insecurity, discouragement and numbness as well as isolation, which can be extremely stressful for the mentally and hearingimpaired [16].

Experts point out that masks disrupt the basics of human communication (verbal and nonverbal). The limited facial recognition caused by masks leads to a suppression of emotional signals. Masks, therefore, disrupt social interaction, erasing the positive effect of smiles and laughter but at the same time greatly increasing the likelihood of misunderstandings because negative emotions are also less evident under masks [42].

A decrease in empathy perception through mask use with disruption of the doctorpatient relationship has already been scientifically proven on the basis of a randomized study (statistically significant, with p = 0.04) [99]. In this study, the Consultation Empathy Care Measury, the Patient Enablement Instrument (PEI) Score and a Satisfaction Rating Scale were assessed in 1030 patients. The 516 doctors, who wore masks throughout, conveyed reduced empathy towards the patients and, thus, nullified the positive healthpromoting effects of a dynamic relationship. These results demonstrate a disruption of interpersonal interaction and relationship dynamics caused by masks.

The WHO guidance on the use of masks in children in the community, published in August 2020, points out that the benefits of mask use in children must be weighed up against the potential harms, including social and communicational concerns [100].

Fears that widespread pandemic measures will lead to dysfunctional social life with degraded social, cultural and psychological interactions have also been expressed by other experts [6–8,42].

#### 3.11. Social and Occupational Medicine Side Effects and Hazards

In addition to mask-specific complaints such as a feeling of heat, dampness, shortness of breath and headache, various physiological phenomena were documented, such as the significant increase in heart and respiratory rate, the impairment of lung function parameters, the decrease in cardiopulmonary capacity (e.g., lower maximum blood lactate response) [15,19,21,23,29–31], as well as the changes in oxygen and carbon dioxide both in the end-expiratory and the air under the mask that was measured in the blood of the individuals [13,15,18,19,21–25,27–34]. The significant changes were measurable after only a few minutes of wearing a mask and in some cases reached magnitudes of minus 13% reduced O<sub>2</sub> concentration and 30-fold increased CO<sub>2</sub> concentration of the inhaled air under masks (p < 0.001) [18]. The changes observed were not only statistically significant, but also clinically relevant; the subjects also showed pathological oxygen saturation after exposure to masks (p < 0.02) [18].

Shortness of breath during light exertion (6 min walking) under surgical masks has been recorded with statistical significance in 44 healthy subjects in a prospective experimental intervention study (p < 0.001) [101]. Here, the complaints were assessed using a subjective, visual analogue scale.

In another study from 2011, all tested masks caused a significantly measurable increase in discomfort and a feeling of exhaustion in the 27 subjects during prolonged usage (p < 0.0001) [69].

These symptoms lead to additional stress for the occupational mask wearer and, thus, in relation to the feeling of exhaustion, contribute to the self-perpetuating vicious circle caused by the vegetative sympathetic activation, which further increases the respiratory and heart rate, blood pressure and increased sense of exhaustion [16,20,35,83].

Other studies showed that the psychological and physical effects of the masks can lead to an additional reduction in work performance (measured with the Roberge Subjective Symptoms-during-Work Scale, a Likert scale of 1–5) via increased feelings of fatigue, dissatisfaction and anxiety [58,102,103].

Wearing masks over a longer period of time also led to physiological and psychological impairments in other studies and, thus, reduced work performance [19,36,58,69]. In experiments on respiratory-protective equipment, an increase in the dead space volume by 350 mL leads to a reduction in the possible performance time by approx. -19%, furthermore to a decrease in breathing comfort by -18% (measured via a subjective rating scale) [58]. In addition, the time spent working and the flow of work is interrupted and reduced by putting on and taking off the masks and changing them. The reduced work performance has been recorded in the literature found as described above (especially in Sections 3.1 and 3.2) but has not been quantified further in detail [36,58].

Surgical mask type and N95 protective equipment frequently caused adverse effects in medical personnel such as headaches, breathing difficulties, acne, skin irritation, itching, decreased alertness, decreased mental performance and feelings of dampness and heat [19,29,37,71,85]. Subjective, work performance-reducing, mask-related impairments in users, measured with special survey scores and Likert scales, have also been described in other studies [15,21,27,32,35,43,66–68,72,96,99].

In Section 3.7 on dermatology, we already mentioned a paper that demonstrated a significant temperature increase of 1.9 °C on average (to over 34.5 °C) in the mask-covered facial area (p < 0.05) [85]. Due to the relatively larger representation in the sensitive cerebral cortex (homunculus), the temperature sensation in the face is more decisive for the feeling of well-being than other body regions [36,44]. The perception of discomfort when wearing a mask can, thus, be intensified. Interestingly, in our analysis, we found a combined occurrence of the physical variable temperature rise under the mask and the symptom respiratory impairment in seven of eight studies concerned, with a mutual significantly measured occurrence in 88%. We also detected a combined occurrence of significantly measured temperature rise under the mask and significantly measured fatigue in 50% of the relevant primary studies (three of six papers, Figure 2). These clustered associations of

temperature rise with symptoms of respiratory impairment and fatigue suggest a clinical relevance of the detected temperature rise under masks. In the worst case scenario, the effects mentioned can reinforce each other and lead to decompensation, especially in the presence of COPD, heart failure and respiratory insufficiency.

The sum of the disturbances and discomforts that can be caused by a mask also contributes to distraction (see also psychological impairment). These, in conjunction with a decrease in psycho-motoric skills, reduced responsiveness and overall impaired cognitive performance (all of which are pathophysiological effects of wearing a mask) [19,29,32,39–41] can lead to a failure to recognize hazards and, thus, to accidents or avoidable errors at work [19,36,37]. Of particular note here are mask-induced listlessness (p < 0.05), impaired thinking (p < 0.05) and concentration problems (p < 0.02) as measured by a Likert scale (1–5) [29]. Accordingly, occupational health regulations take action against such scenarios. The German Industrial Accident Insurance (DGUV) has precise and extensive regulations for respiratory protective equipment where they document the limitation of wearing time, levels of work intensity and defined instruction obligation [104].

The standards and norms prescribed in many countries regarding different types of masks to protect their workers are also significant from an occupational health point of view [105]. In Germany, for example, there are very strict safety specifications for masks from other international countries. These specify the requirements for the protection of the wearer [106]. All these standards and the accompanying certification procedures were increasingly relaxed with the introduction of mandatory masks for the general public. This meant that non-certified masks such as community masks were also used on a large scale in the work and school sectors for longer periods during the pandemic measures [107]. Most recently, in October 2020, the German Social Accident Insurance (DGUV) recommended the same usage time limits for community masks as for filtering half masks, namely, a maximum of three shifts of 120 min per day with recovery breaks of 30 min in between. In Germany, FFP2 (N95) masks must be worn for 75 min, followed by a 30-minute break. An additional suitability examination by specialized physicians is also obligatory and stipulated for occupationally used respirators [104].

## 3.12. Microbiological Consequences for Wearer and Environment: Foreign/Self-Contamination

Masks cause retention of moisture [61]. Poor filtration performance and incorrect use of surgical masks and community masks, as well as their frequent reuse, imply an increased risk of infection [108–110]. The warm and humid environment created by and in masks without the presence of protective mechanisms such as antibodies, the complement system, defense cells and pathogen-inhibiting and on a mucous membrane paves the way for unimpeded growth and, thus, an ideal growth and breeding ground for various pathogens such as bacteria and fungi [88] and also allows viruses to accumulate [87]. The warm and humid mask microclimate favors the accumulation of various germs on and underneath the masks [86], and the germ density is measurably proportional to the length of time the mask is worn. After only 2 h of wearing the mask, the pathogen density increases almost tenfold in experimental observation studies [87,89].

From a microbiological and epidemiological point of view, masks in everyday use pose a risk of contamination. This can occur as foreign contamination but also as self-contamination. On the one hand, germs are sucked in or attach themselves to the masks through convection currents. On the other hand, potential infectious agents from the nasopharynx accumulate excessively on both the outside and inside of the mask during breathing [5,88]. This is compounded by contact with contaminated hands. Since masks are constantly penetrated by germ-containing breath and the pathogen reproduction rate is higher outside mucous membranes, potential infectious pathogens accumulate excessively on the outside and inside of masks. On and in the masks, there are quite serious, potentially disease-causing bacteria and fungi such as *E. coli* (54% of all germs detected), Staphylococcus aureus (25% of all germs detected), Candida (6%), Klebsiella (5%), Enterococci (4%),

Pseudomonads (3%), Enterobacter (2%) and Micrococcus (1%) even detectable in large quantities [88].

In another microbiological study, the bacterium Staphylococcus aureus (57% of all bacteria detected) and the fungus Aspergillus (31% of all fungi detected) were found to be the dominant germs on 230 surgical masks examined [86].

After more than six hours of use, the following viruses were found in descending order on 148 masks worn by medical personnel: adenovirus, bocavirus, respiratory syncytial virus and influenza viruses [87].

From this aspect, it is also problematic that moisture distributes these potential pathogens in the form of tiny droplets via capillary action on and in the mask, whereby further proliferation in the sense of self- and foreign contamination by the aerosols can then occur internally and externally with every breath [35]. In this regard, it is also known from the literature that masks are responsible for a proportionally disproportionate production of fine particles in the environment and, surprisingly, much more so than in people without masks [98].

It was shown that all mask-wearing subjects released significantly more smaller particles of size 0.3–0.5  $\mu$ m into the air than mask-less people, both when breathing, speaking and coughing (fabric, surgical, N95 masks, measured with the Aerodynamic Particle Sizer, APS, TS, model 3329) [98]. The increase in the detection of rhinoviruses in the sentinel studies of the German RKI from 2020 [90] could be a further indication of this phenomenon, as masks were consistently used by the general population in public spaces in that year.

#### 3.13. Epidemiological Consequences

The possible side effects and dangers of masks described in this paper are based on studies of different types of masks. These include the professional masks of the surgical mask type and N95/KN95 (FFP2 equivalent) that are commonly used in everyday life, but also the community fabric masks that were initially used. In the case of N95, the N stands for National Institute for Occupational Safety and Health of the United States (NIOSH), and 95 indicates the 95 per cent filtering capacity for fine particles up to at least 0.3 µm [82].

A major risk of mask use in the general public is the creation of a false sense of security with regard to protection against viral infections, especially in the sense of a falsely assumed strong self-protection. Disregarding infection risks may not only neglect aspects of source control, but also result in other disadvantages. Although there are quite a few professional positive accounts of the widespread use of masks in the general populace [111], most of the serious and evident scientific reports conclude that the general obligation to wear masks conveys a false sense of security [4,5]. However, this leads to a neglect of those measures that, according to the WHO, have a higher level of effectiveness than mask-wearing: social distancing and hand hygiene [2,112]. Researchers were able to provide statistically significant evidence of a false sense of security and more risky behavior when wearing masks in an experimental setting [112].

Decision makers in many countries informed their citizens early on in the pandemic in March 2020 that people without symptoms should not use a medical mask, as this created a false sense of security [113]. The recommendation was ultimately changed in many countries. At least Germany pointed out that wearers of certain types of masks such as the common fabric masks (community masks) cannot rely on them to protect them or others from transmission of SARS-CoV-2 [114].

However, scientists not only complain about the lack of evidence for fabric masks in the scope of a pandemic [16,110], but also about the high permeability of fabric masks with particles and the potential risk of infection they pose [108,109]. Ordinary fabric masks with a 97% penetration for particle dimensions of  $\geq 0.3 \mu m$  are in stark contrast to medical-type surgical masks with a 44% penetration. In contrast, the N95 mask has a penetration rate of less than 0.01% for particles  $\geq 0.3 \mu m$  in the laboratory experiment [108,115].

For the clinical setting in hospitals and outpatient clinics, the WHO guidelines recommend only surgical masks for influenza viruses for the entire patient treatment except for the strongly aerosol-generating measures, for which finer filtering masks of the type N95 are suggested. However, the WHO's endorsement of specific mask types is not entirely evidence-based due to the lack of high-quality studies in the health sector [108,109,116,117].

In a laboratory experiment (evidence level IIa study), it was demonstrated that both surgical masks and N95 masks have deficits in protection against SARS-CoV-2 and influenza viruses using virus-free aerosols [118]. In this study, the FFP2-equivalent N95 mask performed significantly better in protection (8–12 times more effective) than the surgical mask, but neither mask type established reliable, hypothesis-generated protection against corona and influenza viruses. Both mask types could be penetrated unhindered by aerosol particles with a diameter of 0.08 to 0.2  $\mu$ m. Both the SARS-CoV-2 pathogens with a size of 0.06 to 0.14  $\mu$ m [119] and the influenza viruses with 0.08 to 0.12  $\mu$ m are unfortunately well below the mask pore sizes [118].

The filtering capacity of the N95 mask up to  $0.3 \ \mu m$  [82] is usually not achieved by surgical masks and community masks. However, aerosol droplets, which have a diameter of 0.09 to 3  $\mu m$  in size, are supposed to serve as a transport medium for viruses. These also penetrate the medical masks by 40%. Often, there is also a poor fit between the face and the mask, which further impairs their function and safety [120]. The accumulation of aerosol droplets on the mask is problematic. Not only do they absorb nanoparticles such as viruses [6], but they also follow the airflow when inhaling and exhaling, causing them to be carried further. In addition, a physical decay process has been described for aerosol droplets at increasing temperatures, as also occurs under a mask [15,44,85]. This process can lead to a decrease in size of the fine water droplets up to the diameter of a virus [121,122]. The masks filter larger aerosol droplets but cannot retain viruses themselves and such smaller, potentially virus-containing aerosol droplets of less than 0.2  $\mu m$  and hence cannot stop the spread of virus [123].

Similarly, in an in vivo comparative studies of N95 and surgical masks, there were no significant differences in influenza virus infection rates [124,125]. Although this contrasts with encouraging in vitro laboratory results with virus-free aerosols under non-natural conditions, even with fabric masks [126], it should be noted that under natural in-vivo conditions, the promising filtration functions of fabric masks based on electrostatic effects also rapidly diminish under increasing humidity [127]. A Swiss textile lab test of various masks available on the market to the general public recently confirmed that most mask types filter aerosols insufficiently. For all but one of the eight reusable fabric mask types tested, the filtration efficacy according to EN149 was always less than 70% for particles of 1  $\mu$ m in size. For disposable masks, only half of all eight mask types tested were efficient enough at filtering to retain 70% of particles 1  $\mu$ m in size [128].

A recent experimental study even demonstrated that all mask-wearing people (surgical, N95, fabric masks) release significantly and proportionately smaller particles of size 0.3 to 0.5  $\mu$ m into the air than mask-less people, both when breathing, speaking and coughing [98]. According to this, the masks act like nebulizers and contribute to the production of very fine aerosols. Smaller particles, however, spread faster and further than large ones for physical reasons. Of particular interest in this experimental reference study was the finding that a test subject wearing a single-layer fabric mask was also able to release a total of 384% more particles (of various sizes) when breathing than a person without [98].

It is not only the aforementioned functional weaknesses of the masks themselves that lead to problems, but also their use. This increases the risk of a false sense of security. According to the literature, mistakes are made by both healthcare workers and lay people when using masks as hygienically correct mask use is by no means intuitive. Overall, 65% of healthcare professionals and as many as 78% of the general population, use masks incorrectly [116]. With both surgical masks and N95 masks, adherence to the rules of use is impaired and not adequately followed due to reduced wearability with heat discomfort and skin irritation [29,35,116,129]. This is exacerbated by the accumulation of carbon dioxide

due to the dead space (especially under the N95 masks) with the resulting headaches described [19,27,37,66–68,83]. Increased heart rate, itching and feelings of dampness [15,29,30,35,71] also lead to reduced safety and quality during use (see also social and occupational health side effects and hazards). For this reason, (everyday) masks are even considered a general risk for infection in the general population, which does not come close to imitating the strict hygiene rules of hospitals and doctors' offices: the supposed safety, thus, becomes a safety risk itself [5].

In a meta-analysis of evidence level Ia commissioned by the WHO, no effect of masks in the context of influenza virus pandemic prevention could be demonstrated [130]. In 14 randomized controlled trials, no reduction in the transmission of laboratory-confirmed influenza infections was shown. Due to the similar size and distribution pathways of the virus species (influenza and Corona, see above), the data can also be transferred to SARS-CoV-2 [118]. Nevertheless, a combination of occasional mask-wearing with adequate hand-washing caused a slight reduction in infections for influenza in one study [131]. However, since no separation of hand hygiene and masks was achieved in this study, the protective effect can rather be attributed to hand hygiene in view of the aforementioned data [131].

A recently published large prospective Danish comparative study comparing mask wearers and non-mask wearers in terms of their infection rates with SARS-CoV2 could not demonstrate any statistically significant differences between the groups [132].

#### 3.14. Paediatric Side Effects and Hazards

Children are particularly vulnerable and may be more likely to receive inappropriate treatment or additional harm. It can be assumed that the potential adverse mask effects described for adults are all the more valid for children (see Section 3.1 to Section 3.13: physiological internal, neurological, psychological, psychiatric, dermatological, ENT, dental, sociological, occupational and social medical, microbiological and epidemiological impairments and also Figures 2 and 3).

Special attention must be paid to the respiration of children, which represents a critical and vulnerable physiological variable due to higher oxygen demand, increased hypoxia susceptibility of the CNS, lower respiratory reserve, smaller airways with a stronger increase in resistance when the lumen is narrowed. The diving reflex caused by stimulating the nose and upper lip can cause respiratory arrest to bradycardia in the event of oxygen deficiency.

The masks currently used for children are exclusively adult masks manufactured in smaller geometric dimensions and had neither been specially tested nor approved for this purpose [133].

In an experimental British research study, the masks frequently led to feelings of heat (p < 0.0001) and breathing problems (p < 0.03) in 100 school children between 8 and 11 years of age especially during physical exertion, which is why the protective equipment was taken off by 24% of the children during physical activity [133]. The exclusion criteria for this mask experiment were lung disease, cardiovascular impairment and claustrophobia [133].

Scientists from Singapore were able to demonstrate in their level Ib study published in the renowned journal "nature" that 106 children aged between 7 and 14 years who wore FFP2 masks for only 5 min showed an increase in the inspiratory and expiratory CO<sub>2</sub> levels, indicating disturbed respiratory physiology [26].

However, a disturbed respiratory physiology in children can have long-term diseaserelevant consequences. Slightly elevated CO<sub>2</sub> levels are known to increase heart rate, blood pressure, headache, fatigue and concentration disorders [38].

Accordingly, the following conditions were listed as exclusion criteria for mask use [26]: any cardiopulmonary disease including but not limited to: asthma, bronchitis, cystic fibrosis, congenital heart disease, emphysema; any condition that may be aggravated by physical exertion, including but not limited to: exercise-induced asthma; lower respiratory tract infections (pneumonia, bronchitis within the last 2 weeks), anxiety disorders, diabetes, hypertension or epilepsy/attack disorder; any physical disability due to medical, orthopedic or neuromuscular disease; any acute upper respiratory illness or symptomatic rhinitis (nasal obstruction, runny nose or sneezing); any condition with deformity that affects the fit of the mask (e.g., increased facial hair, craniofacial deformities, etc.).

It is also important to emphasize the possible effects of masks in neurological diseases, as described earlier (Section 3.3).

Both masks and face shields caused fear in 46% of children (37 out of 80) in a scientific study. If children are given the choice of whether the doctor examining them should wear a mask they reject this in 49% of the cases. Along with their parents, the children prefer the practitioner to wear a face visor (statistically significant with p < 0.0001) [134].

A recent observational study of tens of thousands of mask-wearing children in Germany helped the investigators objectify complaints of headaches (53%), difficulty concentrating (50%), joylessness (49%), learning difficulties (38%) and fatigue in 37% of the 25,930 children evaluated. Of the children observed, 25% had new onset anxiety and even nightmares [135]. In children, the threat scenarios generated by the environment are further maintained via masks, in some cases, even further intensified, and in this way, existing stress is intensified (presence of subconscious fears) [16,35,136,137].

This can in turn lead to an increase in psychosomatic and stress-related illnesses [74,75]. For example, according to an evaluation, 60% of mask wearers showed stress levels of the highest grade 10 on a scale of 1 to a maximum of 10. Less than 10% of the mask wearers surveyed had a stress level lower than 8 out of a possible 10 [74].

As children are considered a special group, the WHO also issued a separate guideline on the use of masks in children in the community in August 2020, explicitly advising policy makers and national authorities, given the limited evidence, that the benefits of mask use in children must be weighed up against the potential harms associated with mask use. This includes feasibility and discomfort, as well as social and communication concerns [100].

According to experts, masks block the foundation of human communication and the exchange of emotions and not only hinder learning but deprive children of the positive effects of smiling, laughing and emotional mimicry [42]. The effectiveness of masks in children as a viral protection is controversial, and there is a lack of evidence for their widespread use in children; this is also addressed in more detail by the scientists of the German University of Bremen in their thesis paper 2.0 and 3.0 [138].

#### 3.15. Effects on the Environment

According to WHO estimates of a demand of 89 million masks per month, their global production will continue to increase under the Corona pandemic [139]. Due to the composition of, e.g., disposable surgical masks with polymers such as polypropylene, polyurethane, polyacrylonitrile, polystyrene, polycarbonate, polyethylene and polyester [140], an increasing global challenge, also from an environmental point of view, can be expected, especially outside Europe, in the absence of recycling and disposal strategies [139]. The aforementioned single use polymers have been identified as a significant source of plastic and plastic particles for the pollution of all water cycles up to the marine environment [141].

A significant health hazard factor is contributed by mask waste in the form of microplastics after decomposition into the food chain. Likewise, contaminated macroscopic disposable mask waste—especially before microscopic decay—represents a widespread medium for microbes (protozoa, bacteria, viruses, fungi) in terms of invasive pathogens [86–89,142]. Proper disposal of bio-contaminated everyday mask material is insufficiently regulated even in western countries.

## 4. Discussion

The potential drastic and undesirable effects found in multidisciplinary areas illustrate the general scope of global decisions on masks in general public in the light of combating the pandemic. According to the literature found, there are clear, scientifically recorded adverse effects for the mask wearer, both on a psychological and on a social and physical level. Neither higher level institutions such as the WHO or the European Centre for Disease Prevention and Control (ECDC) nor national ones, such as the Centers for Disease Control and Prevention, GA, USA (CDC) or the German RKI, substantiate with sound scientific data a positive effect of masks in the public (in terms of a reduced rate of spread of COVID-19 in the population) [2,4,5].

Contrary to the scientifically established standard of evidence-based medicine, national and international health authorities have issued their theoretical assessments on the masks in public places, even though the compulsory wearing of masks gives a deceptive feeling of safety [5,112,143].

From an infection epidemiological point of view, masks in everyday use offer the risk of self-contamination by the wearer from both inside and outside, including via contaminated hands [5,16,88]. In addition, masks are soaked by exhaled air, which potentially accumulates infectious agents from the nasopharynx and also from the ambient air on the outside and inside of the mask. In particular, serious infection-causing bacteria and fungi should be mentioned here [86,88,89], but also viruses [87]. The unusual increase in the detection of rhinoviruses in the sentinel studies of the German RKI from 2020 [90] could be an indication of this phenomenon. Clarification through further investigations would therefore be desirable.

Masks, when used by the general public, are considered by scientists to pose a risk of infection because the standardized hygiene rules of hospitals cannot be followed by the general public [5]. On top of that, mask wearers (surgical, N95, fabric masks) exhale relatively smaller particles (size 0.3 to 0.5  $\mu$ m) than mask-less people and the louder speech under masks further amplifies this increased fine aerosol production by the mask wearer (nebulizer effect) [98].

The history of modern times shows that already in the influenza pandemics of 1918–1919, 1957–58, 1968, 2002, in SARS 2004–2005 as well as with the influenza in 2009, masks in everyday use could not achieve the hoped-for success in the fight against viral infection scenarios [67,144]. The experiences led to scientific studies describing as early as 2009 that masks do not show any significant effect with regard to viruses in an everyday scenario [129,145]. Even later, scientists and institutions rated the masks as unsuitable to protect the user safely from viral respiratory infections [137,146,147]. Even in hospital use, surgical masks lack strong evidence of protection against viruses [67].

Originally born out of the useful knowledge of protecting wounds from surgeons' breath and predominantly bacterial droplet contamination [144,148,149], the mask has been visibly misused with largely incorrect popular everyday use, particularly in Asia in recent years [150]. Significantly, the sociologist Beck described the mask as a cosmetic of risk as early as 1992 [151]. Unfortunately, the mask is inherent in a vicious circle: strictly speaking, it only protects symbolically and at the same time represents the fear of infection. This phenomenon is reinforced by the collective fear mongering, which is constantly nurtured by main stream media [137].

Nowadays, the mask represents a kind of psychological support for the general population during the virus pandemic, promising them additional anxiety-reduced freedom of movement. The recommendation to use masks in the sense of "source control" not out of self-protection but out of "altruism" [152] is also very popular with the regulators as well as the population of many countries. The WHO's recommendation of the mask in the current pandemic is not only a purely infectiological approach, but is also clear on the possible advantages for healthy people in the general public. In particular, a reduced potential stigmatization of mask wearers, the feeling of a contribution made to preventing the spread of the virus, as well as the reminder to adhere to other measures are mentioned [2].

It should not go unmentioned that very recent data suggest that the detection of SARS-CoV-2 infection does not seem to be directly related to popular mask use. The groups examined in a retrospective comparative study (infected with SARS-CoV-2 and not infected) did not differ in their habit of using masks: approximately 70% of the subjects in both groups always wore masks and another 14.4% of them frequently [143].

In a Danish prospective study on mask-wearing carried out on about 6000 participants and published in 2020, scientists found no statistically significant difference in the rates of SARS-CoV-2 infection when comparing the group of 3030 mask wearers with the 2994 mask-less participants in the study (p = 0.38) [132].

Indeed, in the case of viral infections, masks appear to be not only less effective than expected, but also not free of undesirable biological, chemical, physical and psychological side effects [67]. Accordingly, some experts claim that well-intentioned unprofessionalism can be quite dangerous [6].

The dermatological colleagues were the first to describe common adverse effects of mask-wearing in larger collectives. Simple, direct physical, chemical and biological effects of the masks with increases in temperature, humidity and mechanical irritation caused acne in up to 60% of wearers [37,71–73,85]. Other significantly documented consequences were eczema, skin damage and overall impaired skin barrier function [37,72,73].

These direct effects of mask use are an important pointer to further detrimental effects affecting other organ systems.

In our work, we have identified scientifically validated and numerous statistically significant adverse effects of masks in various fields of medicine, especially with regard to a disruptive influence on the highly complex process of breathing and negative effects on the respiratory physiology and gas metabolism of the body (see Figures 2 and 3). The respiratory physiology and gas exchange play a key role in maintaining a health-sustaining balance in the human body [136,153]. According to the studies we found, a dead space volume that is almost doubled by wearing a mask and a more than doubled breathing resistance (Figure 3) [59–61] lead to a rebreathing of carbon dioxide with every breathing cycle [16–18,39,83] with—in healthy people mostly—a subthreshold but, in sick people, a partly pathological increase in the carbon dioxide partial pressure ( $PaCO_2$ ) in the blood [25,34,58]. According to the primary studies found, these changes contribute reflexively to an increase in respiratory frequency and depth [21,23,34,36] with a corresponding increase in the work of the respiratory muscles via physiological feedback mechanisms [31,36]. Thus, it is not, as initially assumed, purely positive training through mask use. This often increases the subliminal drop in oxygen saturation  $\text{SpO}_2$  in the blood [23,28–30,32], which is already reduced by increased dead space volume and increased breathing resistance [18,31].

The overall possible resulting measurable drop in oxygen saturation  $O_2$  of the blood on the one hand [18,23,28–30,32] and the increase in carbon dioxide (CO<sub>2</sub>) on the other [13,15,19,21–28] contribute to an increased noradrenergic stress response, with heart rate increase [29,30,35] and respiratory rate increase [15,21,23,34], in some cases also to a significant blood pressure increase [25,35].

In panic-prone individuals, stress-inducing noradrenergic sympathetic activation can be partly directly mediated via the carbon dioxide (CO<sub>2</sub>) mechanism at the locus coeruleus in the brainstem [39,78,79,153], but also in the usual way via chemo-sensitive neurons of the nucleus solitarius in the medulla [136,154]. The nucleus solitarius [136] is located in the deepest part of the brainstem, a gateway to neuronal respiratory and circulatory control [154]. A decreased oxygen (O<sub>2</sub>) blood level there causes the activation of the sympathetic axis via chemoreceptors in the carotids [155,156].

Even subthreshold changes in blood gases such as those provoked when wearing a mask cause reactions in these control centers in the central nervous system. Masks, therefore, trigger direct reactions in important control centers of the affected brain via the slightest changes in oxygen and carbon dioxide in the blood of the wearer [136,154,155].

A link between disturbed breathing and cardiorespiratory diseases such as hypertension, sleep apnea and metabolic syndrome has been scientifically proven [56,57]. Interestingly, decreased oxygen/ $O_2$  blood levels and also increased carbon dioxide/ $CO_2$ blood levels are considered the main triggers for the sympathetic stress response [38,136]. The aforementioned chemo-sensitive neurons of the nucleus solitarius in the medulla are considered to be the main responsible control centers [136,154,155]. Clinical effects of prolonged mask-wearing would, thus, be a conceivable intensification of chronic stress reactions and negative influences on the metabolism leading towards a metabolic syndrome. The mask studies we found show that such disease-relevant respiratory gas changes ( $O_2$  and  $CO_2$ ) [38,136] are already achieved by wearing a mask [13,15,18,19,21–34].

A connection between hypoxia, sympathetic reactions and leptin release is scientifically known [136].

Additionally important is the connection of breathing with the influence on other bodily functions [56,57], including the psyche with the generation of positive emotions and drive [153]. The latest findings from neuro-psychobiological research indicate that respiration is not only a function regulated by physical variables to control them (feedback mechanism), but rather independently influences higher-level brain centers and, thus, also helps to shape psychological and other bodily functions and reactions [153,157,158]. Since masks impede the wearer's breathing and accelerate it, they work completely against the principles of health-promoting breathing [56,57] used in holistic medicine and yoga. According to recent research, undisturbed breathing is essential for happiness and healthy drive [157,159], but masks work against this.

The result of significant changes in blood gases in the direction of hypoxia (drop in oxygen saturation) and hypercapnia (increase in carbon dioxide concentration) through masks, thus, has the potential to have a clinically relevant influence on the human organism even without exceeding normal limits.

According to the latest scientific findings, blood-gas shifts towards hypoxia and hypercapnia not only have an influence on the described immediate, psychological and physiological reactions on a macroscopic and microscopic level, but additionally on gene expression and metabolism on a molecular cellular level in many different body cells. Through this, the drastic disruptive intervention of masks in the physiology of the body also becomes clear down to the cellular level, e.g., in the activation of hypoxia-induced factor (HIF) through both hypercapnia and hypoxia-like effects [160]. HIF is a transcription factor that regulates cellular oxygen supply and activates signaling pathways relevant to adaptive responses. e.g., HIF inhibits stem cells, promotes tumor cell growth and inflammatory processes [160]. Based on the hypoxia- and hypercapnia-promoting effects of masks, which have been comprehensively described for the first time in our study, potential disruptive influences down to the intracellular level (HIF-a) can be assumed, especially through the prolonged and excessive use of masks. Thus, in addition to the vegetative chronic stress reaction in mask wearers, which is channeled via brain centers, there is also likely to be an adverse influence on metabolism at the cellular level. With the prospect of continued mask use in everyday life, this also opens up an interesting field of research for the future.

The fact that prolonged exposure to latently elevated  $CO_2$  levels and unfavorable breathing air compositions has disease-promoting effects was recognized early on. As early as 1983, the WHO described "Sick Building Syndrome" (SBS) as a condition in which people living indoors experienced acute disease-relevant effects that increased with time of their stay, without specific causes or diseases [161,162]. The syndrome affects people who spend most of their time indoors, often with subliminally elevated CO<sub>2</sub> levels, and are prone to symptoms such as increased heart rate, rise in blood pressure, headaches, fatigue and difficulty concentrating [38,162]. Some of the complaints described in the mask studies we found (Figure 2) are surprisingly similar to those of Sick Building Syndrome [161]. Temperature, carbon dioxide content of the air, headaches, dizziness, drowsiness and itching also play a role in Sick Building Syndrome. On the one hand, masks could themselves be responsible for effects such as those described for Sick Building Syndrome when used for a longer period of time. On the other hand, they could additionally intensify these effects when worn in air-conditioned buildings, especially when masks are mandatory indoors. Nevertheless, there was a tendency towards higher systolic blood pressure values in mask wearers in some studies [21,31,34], but statistical significance was only found in two studies [25,35]. However, we found more relevant and significant evidence of heart

rate increase, headache, fatigue and concentration problems associated with mask wearers (Figure 2) indicating the clinical relevance of wearing masks.

According to the scientific results and findings, masks have measurably harmful effects not only on healthy people, but also on sick people and their relevance is likely to increase with the duration of use [69]. Further research is needed here to shed light on the long-term consequences of widespread mask use with subthreshold hypoxia and hypercapnia in the general population, also regarding possible exacerbating effects on cardiorespiratory lifestyle diseases such as hypertension, sleep apnea and metabolic syndrome. The already often elevated blood carbon dioxide (CO<sub>2</sub>) levels in overweight people, sleep apnea patients and patients with overlap-COPD could possibly increase even further with everyday masks. Not only a high body mass index (BMI) but also sleep apnea are associated with hypercapnia during the day in these patients (even without masks) [19,163]. For such patients, hypercapnia means an increase in the risk of serious diseases with increased morbidity, which could then be further increased by excessive mask use [18,38].

The hypercapnia-induced effects of sympathetic stress activation are even cycle phasedependent in women. Controlled by a progesterone mechanism, the sympathetic reaction, measured by increased blood pressure in the luteal phase, is considerably stronger [164]. This may also result in different sensitivities for healthy and sick women to undesirable effects masks have, which are related to an increase in carbon dioxide (CO<sub>2</sub>).

In our review, negative physical and psychological changes caused by masks could be objectified even in younger and healthy individuals.

The physical and chemical parameters did not exceed the normal values in most cases but were statistically significantly measurable (p < 0.05) tending towards pathological ranges. They were accompanied by physical impairments (see Figure 2). It is well known that subthreshold stimuli are capable of causing pathological changes when exposed to them for a long time: not only a single high dose of a disturbance, but also a chronically persistent, subthreshold exposure to it often leads to illness [38,46–48,50–54]. The scientifically repeatedly measurable physical and chemical mask effects were often accompanied by typical subjective complaints and pathophysiological phenomena. The fact that these frequently occur simultaneously and together indicates a syndrome under masks.

Figure 2 sums up the significant mask-dependent physiological, psychological, somatic and general pathological changes and their frequent occurrence together is striking. Within the framework of the quantitative evaluation of the experimental studies, we were actually able to prove a statistically significant correlation of the observed side effects of fatigue and oxygen depletion under mask use with p < 0.05. In addition, we found a frequent, simultaneous and joint occurrence of further undesirable effects in the scientific studies (Figure 2). Statistically significant associations of such co-occurring, adverse effects have already been described in primary studies [21,29]. We detected a combined occurrence of the physical parameter temperature rise under the mask with the symptom respiratory impairment in seven of the nine studies concerned (88%). We found a similar result for the decrease in oxygen saturation under mask and the symptom respiratory impairment with a simultaneous detection in six of the eight studies concerned (67%). We detected a combined occurrence of carbon dioxide rise under N95 mask use in nine of the 11 scientific papers (82%). We found a similar result for oxygen drop under N95 mask use with simultaneous co-occurrence in eight of 11 primary papers (72%). The use of N95 masks was also associated with headache in six of the 10 primary studies concerned (60%). A combined occurrence of the physical parameters temperature rise and humidity under masks was even found 100% within six of the six studies with significant measurements of these parameters (Figure 2).

Since the symptoms were described in combination in mask wearers and were not observed in isolation in the majority of cases, we refer to them as general Mask-Induced Exhaustion Syndrome (MIES) because of the consistent presentation in numerous papers from different disciplines. These include the following, predominantly statistically significantly (p < 0.05) proven pathophysiological changes and subjective complaints, which often occur in combination as described above (see also Section 3.1 to Section 3.11, Figures 2–4):

- Increase in dead space volume [22,24,58,59] (Figure 3, Sections 3.1 and 3.2).
- Increase in breathing resistance [31,35,61,118] (Figure 3, Figure 2: Column 8).
- Increase in blood carbon dioxide [13,15,19,21–28] (Figure 2: Column 5).
- Decrease in blood oxygen saturation [18,19,21,23,28–34] (Figure 2: Column 4).
- Increase in heart rate [15,19,23,29,30,35] (Figure 2: Column 12).
- Decrease in cardiopulmonary capacity [31] (Section 3.2).
- Feeling of exhaustion [15,19,21,29,31–35,69] (Figure 2: Column 14).
- Increase in respiratory rate [15,21,23,34] (Figure 2: Column 9).
- Difficulty breathing and shortness of breath [15,19,21,23,25,29,31,34,35,71,85,101,133] (Figure 2: Column 13).
- Headache [19,27,37,66-68,83] (Figure 2: Column 17).
- Dizziness [23,29] (Figure 2: Column 16).
- Feeling of dampness and heat [15,16,22,29,31,35,85,133] (Figure 2: Column 7).
- Drowsiness (qualitative neurological deficits) [19,29,32,36,37] (Figure 2: Column 15).
- Decrease in empathy perception [99] (Figure 2: Column 19).
- Impaired skin barrier function with acne, itching and skin lesions [37,72,73] (Figure 2: Column 20–22).

It can be deduced from the results that the effects described in healthy people are all more pronounced in sick people, since their compensatory mechanisms, depending on the severity of the illness, are reduced or even exhausted. Some existing studies on and with patients with measurable pathological effects of the masks support this assumption [19,23,25,34]. In most scientific studies, the exposure time to masks in the context of the measurements/investigations was significantly less (in relation to the total wearing and duration of use) than is expected of the general public under the current pandemic regulations and ordinances.

The exposure time limits are little observed or knowingly disregarded in many areas today as already mentioned in Section 3.11 on occupational medicine. The above facts allow the conclusion that the described negative effects of masks, especially in some of our patients and the very elderly, may well be more severe and adverse with prolonged use than presented in some mask studies.

From a doctor's viewpoint, it may also be difficult to advise children and adults who, due to social pressure (to wear a mask) and the desire to feel they belong, suppress their own needs and concerns until the effects of masks have a noticeable negative impact on their health [76]. Nevertheless, the use of masks should be stopped immediately at the latest when shortness of breath, dizziness or vertigo occur [23,25]. From this aspect, it seems sensible for decision makers and authorities to provide information, to define instruction obligations and offer appropriate training for employers, teachers and other persons who have a supervisory or caregiving duty. Knowledge about first aid measures could also be refreshed and expanded accordingly in this regard.

Elderly, high-risk patients with lung disease, cardiac patients, pregnant women or stroke patients are advised to consult a physician to discuss the safety of an N95 mask as their lung volume or cardiopulmonary performance may be reduced [23]. A correlation between age and the occurrence of the aforementioned symptoms while wearing a mask has been statistically proven [19]. Patients with reduced cardiopulmonary function are at increased risk of developing serious respiratory failure with mask use according to the referenced literature [34]. Without the possibility of continuous medical monitoring, it can be concluded that they should not wear masks without close monitoring. The American Asthma and Allergy Society has already advised caution in the use of masks with regard to the COVID-19 pandemic for people with moderate and severe lung disease [165]. Since the severely overweight, sleep apnea patients and overlap-COPD sufferers are known to be prone to hypercapnia, they also represent a risk group for serious adverse health effects under extensive mask use [163]. This is because the potential of masks to produce additional

 $CO_2$  retention may not only have a disruptive effect on the blood gases and respiratory physiology of sufferers, but may also lead to further serious adverse health effects in the long term. Interestingly, in an animal experiment an increase in  $CO_2$  with hypercapnia leads to contraction of smooth airway muscles with constriction of bronchi [166]. This effect could explain the observed pulmonary decompensations of patients with lung disease under masks (Section 3.2) [23,34].



**Figure 4.** Unfavorable mask effects as components of Mask-Induced Exhaustion Syndrome (MIES). The chemical, physical and biological effects, as well as the organ system consequences mentioned, are all documented with statistically significant results in the scientific literature found (Figure 2). The term drowsiness is used here to summarize any qualitative neurological deficits described in the examined scientific literature.

Patients with renal insufficiency requiring dialysis are, according to the literature available, further candidates for a possible exemption from the mask requirement [34].

According to the criteria of the Centers for Disease Control and Prevention, GA, USA (CDC), sick and helpless people who cannot remove a mask on their own should be exempted from the mask requirement [82].

Since it can be assumed that children react even more sensitively to masks, the literature suggests that masks are a contraindication for children with epilepsies (hyperventilation as a trigger for seizures) [63]. In the field of pediatrics, special attention should also be paid to the mask symptoms described under psychological, psychiatric and sociological effects with possible triggering of panic attacks by CO<sub>2</sub> rebreathing in the case of predisposition and also reinforcement of claustrophobic fears [77–79,167]. The maskrelated disturbance of verbal [43,45,71] and non-verbal communication and, thus, of social interaction is particularly serious for children. Masks restrict social interaction and block positive perceptions (smiling and laughing) and emotional mimicry [42]. The proven mask-induced mild to moderate cognitive impairment with impaired thinking, decreased attention and dizziness [19,23,29,32,36,37,39-41,69], as well as the psychological and neurological effects [135], should be additionally taken into account when masks are compulsory at school and in the vicinity of both public and non-public transport, also regarding the possibility of an increased risk of accidents (see also occupational health side effects and hazards) [19,29,32,36,37]. The exclusion criteria mentioned in pediatric studies on masks (see pediatric impairments, Section 3.14) [26,133] should also apply to an exclusion of these children from the general mask obligation in accordance with the scientific findings for the protection of the sick children concerned. The long-term sociological, psychological and educational consequences of a comprehensive masking requirement extended to schools are also unpredictable with regard to the psychological and physical development of healthy children [42,135]. Interestingly, according to the Corona Thesis Paper of the University of Bremen children "are infected less often, they become ill less often, the lethality is close to zero, and they also pass on the infection less often", according to the Thesis Paper 2.0 of the German University of Bremen on page 6 [138]. Studies conducted under real-life conditions with outcome endpoints showing hardly any infections, hardly any morbidity, hardly any mortality and only low contagiousness in children are clearly in the majority, according to Thesis Paper 3.0 of the German University of Bremen [138]. A recent German observational study (5600 reporting pediatricians) also showed a surprisingly low incidence of COVID-19 disease in children [168]. The infection of adults with SARS-CoV-2 by children has been considered in only one suspected case, but could not be proven with certainty, since the parents also had numerous contacts and exposure factors for viral infections due to their occupation. In this case, the circulating headlines in the public media that children contribute more to the incidence of infection are to be regarded as anecdotal.

In pregnant women, the use of masks during exertion or at rest over long periods of time is to be regarded as critical as little research has been done on this [20]. If there is clear scientific evidence of increased dead space ventilation with possible accumulation of  $CO_2$  in the mother's blood, the use of masks by pregnant women for more than 1 h, as well as under physical stress, should be avoided in order to protect the unborn child [20,22]. The hypercapnia-promoting masks could act as a confounder of the fetal/maternal  $CO_2$  gradient in this case (Section 3.6) [20,22,28].

According to the literature cited in the Section 3.5 on psychiatric side effects (personality disorders with anxiety and panic attacks, claustrophobia, dementia and schizophrenia), masking should only be done, if at all, with careful consideration of the advantages and disadvantages. Attention should be paid to possible provocation of the number and severity of panic attacks [77–79].

In patients with headaches, a worsening of symptoms can be expected with prolonged mask use (see also Section 3.3., neurological side effects) [27,66–68]. As a result of the increase in blood carbon dioxide ( $CO_2$ ) when the mask is used, vasodilatation occurs in the central nervous system and the pulsation of the blood vessels decreases [27]. In this connection, it is also interesting to note radiological experiments that demonstrate an increase in brain volume under subthreshold, but still within normal limits of  $CO_2$  increase

in the blood by means of structural MRI. The blood carbon dioxide increase was produced in seven subjects via rebreathing with resulting median carbon dioxide concentration of 42 mmHg and an interquartile range of 39.44 mmHg, corresponding to only a subthreshold increase given the normal values of 32–45 mmHg. In the experiment, there was a significant increase in brain parenchymal volume measurable under increased arterial CO<sub>2</sub> levels (p < 0.02), with a concomitant decrease in CSF spaces (p < 0.04), entirely in accordance with the Monroe–Kelly doctrine, according to which the total volume within the skull always remains the same. The authors interpreted the increase in brain volume as an expression of an increase in blood volume due to a CO<sub>2</sub> increase-induced dilation of the cerebral vessels [169]. The consequences of such equally subthreshold carbon dioxide (CO<sub>2</sub>) increases even under masks [13,15,18,19,22,23,25] are unclear for people with pathological changes inside the skull (aneurysms, tumors, etc.) with associated vascular changes [27] and brain volume shifts [169] especially due to longer exposure while wearing a mask, but could be of great relevance due to the blood gas-related volume shifts that take place.

In view of the increased dead space volume, the long-term and increased accumulation and rebreathing of other respiratory air components apart from  $CO_2$  is also unexplained, both in children and in old and sick people. Exhaled air contains over 250 substances, including irritant or toxic gases such as nitrogen oxides (NO), hydrogen sulfide (H2S), isoprene and acetone [170]. For nitrogen oxides [47] and hydrogen sulfide [46], pathological effects relevant to disease have been described in environmental medicine even at a low but chronic exposure [46–48]. Among the volatile organic compounds in exhaled air, acetone and isoprene dominate in terms of quantity, but allyl methyl sulfide, propionic acid and ethanol (some of bacterial origin) should also be mentioned [171]. Whether such substances also react chemically with each other underneath masks and in the dead space volume created by masks (Figure 3), and with the mask tissue itself, and in what quantities these and possible reaction products are rebreathed, has not yet been clarified. In addition to the blood gas changes described above ( $O_2$  drop and  $CO_2$  rise), these effects could also play a role with regard to undesirable mask effects. Further research is needed here and is of particular interest in the case of prolonged and ubiquitous use of masks.

The WHO sees the integration of individual companies and communities that produce their own fabric masks as a potential social and economic benefit. Due to the global shortage of surgical masks and personal protective equipment, it sees this as a source of income and points out that the reuse of fabric masks can reduce costs and waste and contribute to sustainability [2]. In addition to the question of certification procedures for such fabric masks, it should also be mentioned that due to the extensive mask obligation, textile (artificial) substances in the form of micro- and nanoparticles, some of which cannot be degraded in the body, are chronically absorbed into the body through inhalation to an unusual extent. In the case of medical masks, disposable polymers such as polypropylene, polyurethane, polyacrylonitrile, polystyrene, polycarbonate, polyethylene and polyester should be mentioned [140]. ENT physicians have already been able to detect such particles in the nasal mucosa of mask wearers with mucosal reactions in the sense of a foreign body reaction with rhinitis [96]. In the case of community masks, other substances from the textile industry are likely to be added to those mentioned above. The body will try to absorb these substances through macrophages and scavenger cells in the respiratory tract and alveoli as part of a foreign body reaction, whereby toxin release and corresponding local and generalized reactions may occur in an unsuccessful attempt to break them down [172]. Extensive respiratory protection in permanent long-term use (24/7), at least from a theoretical point of view, also potentially carries the risk of leading to a mask-related pulmonary [47] or even generalized disorder, as is already known from textile workers chronically exposed to organic dusts in the Third World (byssinosis) [172].

For the general public, from a scientific angle, it is necessary to draw on the longstanding knowledge of respiratory protection in occupational medicine in order to protect children in particular from harm caused by uncertified masks and improper use. The universal undefined and extended mask requirement—without taking into account multiple predispositions and susceptibilities—contradicts the claim of an increasingly important individualized medicine with a focus on the unique characteristics of each individual [173].

A systematic review on the topic of masks is necessary according to the results of our scoping review. The primary studies often showed weaknesses in operationalization, especially in the evaluation of cognitive and neuropsychological parameters. Computerized test procedures will be useful here in the future. Mask research should also set itself the future goal of investigating and defining subgroups for whom respiratory protection use is particularly risky.

#### 5. Limitations

Our approach with a focus on negative effects is in line with Villalonga-Olives and Kawachi [12]. With the help of such selective questioning in the sense of dialectics, new insights can be gained that might otherwise have remained hidden. Our literature search focused on adverse negative effects of masks, in particular to point out risks especially for certain patient groups. Therefore, publications presenting only positive effects of masks were not considered in this review.

For a compilation of studies with harmless results when using masks, reference must, therefore, be made to reviews with a different research objective, whereby attention must be paid to possible conflicts of interest there. Some of the studies excluded by us lacking negative effects have shown methodological weaknesses (small, non-uniform experimental groups, missing control group even without masks due to corona constraints, etc.) [174]. In other words, if no negative concomitant effects were described in publications, it does not necessarily mean that masks have exclusively positive effects. It is quite possible that negative effects were simply not mentioned in the literature and the number of negative effects may well be higher than our review suggests.

We only searched one database, so the number of papers on negative mask effects may be higher than we reported.

In order to be able to describe characteristic effects for each mask type even more extensively, we did not have enough scientific data on the respective special designs of the masks. There is still a great need for research in this area due to the current pandemic situation with extensive mandatory masking.

In addition, the experiments evaluated in this paper do not always have uniform measurement parameters and study variables and, depending on the study, take into account the effect of masks at rest or under stress with subjects having different health conditions. Figure 2, therefore, represents a compromise. The results of the primary studies on mask use partially showed no natural variation in parameters, but often showed such clear correlations between symptoms and physiological changes, so that a statistical correlation analysis was not always necessary. We found a statistically significant correlation of oxygen deprivation and fatigue in 58% of the studies (p < 0.05). A statistically significant correlation evidence for other parameters has been previously demonstrated in primary studies [21,29].

The most commonly used personal particulate matter protective equipment in the COVID-19 pandemic is the N95 mask [23]. Due to its characteristics (better filtering function, but greater airway resistance and more dead space volume than other masks), the N95 mask is able to highlight negative effects of such protective equipment more clearly than others (Figure 3). Therefore, a relatively frequent consideration and evaluation of N95 masks within the studies found (30 of the 44 quantitatively evaluated studies, 68%) is even advantageous within the framework of our research question. Nevertheless, it remains to be noted that the community masks sold on the market are increasingly similar to the protective equipment that has been better investigated in scientific studies, such as surgical masks and N95 masks, since numerous manufacturers and users of community masks are striving to approximate the professional standard (surgical mask, N95/FFP2). Recent

study results on community masks indicate similar effects for respiratory physiology as described for medical masks: in a recent publication, fabric masks (community masks) also provoked a measurable increase in carbon dioxide  $PtcCO_2$  in wearers during exertion and came very close to surgical masks in this effect [21].

Most of the studies cited in our paper included only short observation and application periods (mask-wearing durations investigated ranged from 5 min [26] to 12 h [19]. In only one study, a maximum observation period of an estimated 2-month period was chosen [37]. Therefore, the actual negative effects of masks over a longer application period might be more pronounced than presented in our work.

## 6. Conclusions

On the one hand, the advocacy of an extended mask requirement remains predominantly theoretical and can only be sustained with individual case reports, plausibility arguments based on model calculations and promising in vitro laboratory tests. Moreover, recent studies on SARS-CoV-2 show both a significantly lower infectivity [175] and a significantly lower case mortality than previously assumed, as it could be calculated that the median corrected infection fatality rate (IFR) was 0.10% in locations with a lower than average global COVID-19 population mortality rate [176]. In early October 2020, the WHO also publicly announced that projections show COVID-19 to be fatal for approximately 0.14% of those who become ill—compared to 0.10% for endemic influenza—again a figure far lower than expected [177].

On the other hand, the side effects of masks are clinically relevant.

In our work, we focused exclusively on the undesirable and negative side effects that can be produced by masks. Valid significant evidence of combined mask-related changes were objectified (p < 0.05,  $n \ge 50\%$ ), and we found a clustered and common occurrence of the different adverse effects within the respective studies with significantly measured effects (Figure 2). We were able to demonstrate a statistically significant correlation of the observed adverse effect of hypoxia and the symptom of fatigue with p < 0.05 in the quantitative evaluation of the primary studies. Our review of the literature shows that both healthy and sick people can experience Mask-Induced Exhaustion Syndrome (MIES), with typical changes and symptoms that are often observed in combination, such as an increase in breathing dead space volume [22,24,58,59], increase in breathing resistance [31,35,60,61], increase in blood carbon dioxide [13,15,17,19,21–30,35], decrease in blood oxygen saturation [18,19,21,23,28–34], increase in heart rate [23,29,30,35], increase in blood pressure [25,35], decrease in cardiopulmonary capacity [31], increase in respiratory rate [15,21,23,34,36], shortness of breath and difficulty breathing [15,17,19,21,23,25,29,31,34,35,60,71,85,101,133], headache [19,27,29,37,66-68,71,83], dizziness [23,29], feeling hot and clammy [17,22,29,31,35,44,71,85,133], decreased ability to concentrate [29], decreased ability to think [36,37], drowsiness [19,29,32,36,37], decrease in empathy perception [99], impaired skin barrier function [37,72,73] with itching [31,35,67,71–73,91–93], acne, skin lesions and irritation [37,72,73], overall perceived fatigue and exhaustion [15,19,21,29,31,32,34,35,69] (Figures 2–4).

Wearing masks does not consistently cause clinical deviations from the norm of physiological parameters, but according to the scientific literature, a long-term pathological consequence with clinical relevance is to be expected owing to a longer-lasting effect with a subliminal impact and significant shift in the pathological direction. For changes that do not exceed normal values, but are persistently recurring, such as an increase in blood carbon dioxide [38,160], an increase in heart rate [55] or an increase in respiratory rate [56,57], which have been documented while wearing a mask [13,15,17,19,21–30,34,35] (Figure 2), a long-term generation of high blood pressure [25,35], arteriosclerosis and coronary heart disease and of neurological diseases is scientifically obvious [38,55–57,160]. This pathogenetic damage principle with a chronic low-dose exposure with long-term effect, which leads to disease or disease-relevant conditions, has already been extensively studied and described in many areas of environmental medicine [38,46–54]. Extended

mask-wearing would have the potential, according to the facts and correlations we have found, to cause a chronic sympathetic stress response induced by blood gas modifications and controlled by brain centers. This in turn induces and triggers immune suppression and metabolic syndrome with cardiovascular and neurological diseases.

We not only found evidence in the reviewed mask literature of potential long-term effects, but also evidence of an increase in direct short-term effects with increased mask-wearing time in terms of cumulative effects for: carbon dioxide retention, drowsiness, headache, feeling of exhaustion, skin irritation (redness, itching) and microbiological contamination (germ colonization) [19,22,37,66,68,69,89,91,92].

Overall, the exact frequency of the described symptom constellation MIES in the mask-using populace remains unclear and cannot be estimated due to insufficient data.

Theoretically, the mask-induced effects of the drop in blood gas oxygen and increase in carbon dioxide extend to the cellular level with induction of the transcription factor HIF (hypoxia-induced factor) and increased inflammatory and cancer-promoting effects [160] and can, thus, also have a negative influence on pre-existing clinical pictures.

In any case, the MIES potentially triggered by masks (Figures 3 and 4) contrasts with the WHO definition of health: "health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." [178].

All the scientific facts found in our work expand the knowledge base for a differentiated view of the mask debate. This gain can be relevant for decision makers who have to deal with the issue of mandatory mask use during the pandemic under constant review of proportionality as well as for physicians who can advise their patients more appropriately on this basis. For certain diseases, taking into account the literature found in this study, it is also necessary for the attending physician to weigh up the benefits and risks with regard to a mask obligation. With an overall strictly scientific consideration, a recommendation for mask exemption can become justifiable within the framework of a medical appraisal (Figure 5).

Internal diseases	Psychiatric illness	Neurological Diseases
COPD	Claustrophobia	Migraines and Headache Sufferers
Sleep Apnea Syndrome	Panic Disorder	Patients with intracranial Masses
advanced renal Failure	Personality Disorders	Epilepsy
Obesity	Dementia	
Cardiopulmonary Dysfunction	Schizophrenia	
Asthma	helpless Patients	
	fixed and sedated Patients	
Pediatric Diseases	ENT Diseases	Occupational Health Restrictions
Asthma	Vocal Cord Disorders	moderate / heavy physical Work
Respiratory diseases	Rhinitis and obstructive Diseases	
Cardiopulmonary Diseases		Gynecological restrictions
Neuromuscular Diseases	Dermatological Diseases	Pregnant Women
Epilepsy	Acne	
	Atopic	

**Figure 5.** Diseases/predispositions with significant risks, according to the literature found, when using masks. Indications for weighing up medical mask exemption certificates.

In addition to protecting the health of their patients, doctors should also base their actions on the guiding principle of the 1948 Geneva Declaration, as revised in 2017. According to this, every doctor vows to put the health and dignity of his patient first and, even under threat, not to use his medical knowledge to violate human rights and civil liberties [9]. Within the framework of these findings, we, therefore, propagate an explicitly medically judicious, legally compliant action in consideration of scientific factual reality [2,4,5,16,130,132,143,175–177] against a predominantly assumption-led claim to a general effectiveness of masks, always taking into account possible unwanted individual ef-
fects for the patient and mask wearer concerned, entirely in accordance with the principles of evidence-based medicine and the ethical guidelines of a physician.

The results of the present literature review could help to include mask-wearing in the differential diagnostic pathophysiological cause consideration of every physician when corresponding symptoms are present (MIES, Figure 4). In this way, the physician can draw on an initial complaints catalogue that may be associated with mask-wearing (Figure 2) and also exclude certain diseases from the general mask requirement (Figure 5).

For scientists, the prospect of continued mask use in everyday life suggests areas for further research. In our view, further research is particularly desirable in the gynecological (fetal and embryonic) and pediatric fields, as children are a vulnerable group that would face the longest and, thus, most profound consequences of a potentially risky mask use. Basic research at the cellular level regarding mask-induced triggering of the transcription factor HIF with potential promotion of immunosuppression and carcinogenicity also appears to be useful under this circumstance. Our scoping review shows the need for a systematic review.

The described mask-related changes in respiratory physiology can have an adverse effect on the wearer's blood gases sub-clinically and in some cases also clinically manifest and, therefore, have a negative effect on the basis of all aerobic life, external and internal respiration, with an influence on a wide variety of organ systems and metabolic processes with physical, psychological and social consequences for the individual human being.

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## **AGENDA ITEM**

Board Mee	ting Date: July 15, 2021	Action	X Information
TO:	Santa Cruz County Board of Educa	ation	
FROM:	Dr. Faris Sabbah, County Superintendent of Schools Les Forster, Program Coordinator, Inside Education		
SUBJECT:	Inside Education Program Present	ation	

## BACKGROUND

Inside Education is a program that consists of a series of workshops designed to better acquaint community members with public education in Santa Cruz County. Participants receive an interactive experience, meeting key leaders and visiting school sites. Superintendent Sabbah and Les Forster will provide an update on Inside Education and ways the program has adapted due to the pandemic.

## SUPERINTENDENT'S RECOMMENDATION:

Receive the presentation.

## FISCAL IMPLICATIONS:

None.



# **AGENDA ITEM**

Board Mee	ting Date: July 15, 2021	Action	X Information
TO:	Santa Cruz County Board of Educa	ation	
FROM:	Dr. Faris Sabbah, County Superintendent of Schools		
SUBJECT:	COVID-19 School Update		

## BACKGROUND

Superintendent Sabbah will give a presentation regarding the ways in which the Santa Cruz County Office of Education has been working in collaboration with School Districts and other partners to support students and families during the COVID-19 Pandemic.

## SUPERINTENDENT'S RECOMMENDATION:

Receive the presentation.

## FISCAL IMPLICATIONS:

None.



# **AGENDA ITEM**

Board Mee	ting Date: July 15, 2021	X Action	Information
TO:	Santa Cruz County Board of Educa	ation	
FROM:	Liann Reyes, Deputy Superintendent, Business Services		
SUBJECT:	Public Hearing: Inter-fund Borrowing		

## BACKGROUND

The Santa Cruz County Office of Education will conduct a public hearing to discuss the temporary borrowing of cash from one fund to another fund of the COE for payment of obligations. The transfer is accounted for as a temporary borrowing between funds and is not available for budgeting. Amounts that are transferred shall be repaid in the same fiscal year, or within the final 120 calendar days of a fiscal year. No more than 75 percent of the maximum of money held in any fund or account during a current fiscal year may be transferred. The decision on this item will take place immediately following this public hearing.

#### SUPERINTENDENT'S RECOMMENDATION:

Open, conduct, and close public hearing.

#### FISCAL IMPLICATIONS:

Included within the presentation.



# **AGENDA ITEM**

Board Mee	eting Date: July 15, 2021	X Action	Information
TO:	Santa Cruz County Board of Education	on	
FROM:	Liann Reyes, Deputy Superintendent,	, Business Servi	ces
SUBJECT:	Resolution #21-11 In The Matter of A Flow Purposes	Authorizing Inter-	Fund Loans for Cash

## BACKGROUND

The Board will be asked to adopt Resolution #21-11 in the matter of authorizing inter-fund loans for cash flow purposes. The public hearing to consider the level of support for this item will be held immediately preceding this item.

#### SUPERINTENDENT'S RECOMMENDATION:

Adopt resolution #21-11.

#### FISCAL IMPLICATIONS:

Included within the resolution.



Santa Cruz County Board of Education • 400 Encinal Street, Santa Cruz, CA 95060 • Tel (831) 466-5900 • www.santacruzcoe.org Mr. Ed Acosta • Ms. Rose Filicetti • Ms. Sandra Nichols • Ms. Sue Roth Mr. Abel Sanchez • Mr. Bruce Van Allen • Ms. Alyssa Wall

## RESOLUTION #21-11 IN THE MATTER OF AUTHORIZING INTER-FUND LOANS FOR CASH FLOW PURPOSES

**RESOLVED,** by the Board of Trustees of the Santa Cruz County Office of Education, a school district in the County of Santa Cruz, State of California, that

WHEREAS, the Santa Cruz County Office of Education administers various funds; and

- **WHEREAS,** the Santa Cruz County Office of Education occasionally has cash shortages in its segregated funds at the county treasury; and
- WHEREAS, the governing board of any school district may direct that moneys held in any fund or account may be temporarily transferred to another fund or account of the district for payment of obligations as authorized by Education Code section 42603, not to exceed 75% of the maximum of moneys held in any Fund; and
- WHEREAS, the transfer shall be accounted for as temporary borrowing between funds or accounts; and amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year.
- **NOW, THEREFORE, IT IS HEREBY RESOLVED** that the Governing Board of the Santa Cruz County Office of Education authorizes the Administration to transfer funds as needed for cash-flow purposes and to repay those transfers as funds become available for the 2021-2022 fiscal year.

**PASSED AND ADOPTED** by the Santa Cruz County Office of Education Board, County of Santa Cruz, State of California, this 15 th day of July 2021, by the following vote:

AYES:

NAYS:

**ABSENT:** 

**ABSTAIN:** 

Rose Filicetti, Board President Santa Cruz County Board of Education

Dr. Faris M. Sabbah, Secretary Santa Cruz County Superintendent of Schools



## **AGENDA ITEM**

Board Mee	ting Date: Ju	ıly 15, 2021	x	Action	Information
TO:	Santa Cruz Co	unty Board of Education	on		
FROM:	Board Policy Committee				
SUBJECT:	First Reading:	Board Policies 5000s	Series	5	

## BACKGROUND

Modified and new policies may be adopted by the County Board of Education following a first and second reading by the Board. The Board may accept the following proposed policy(ies) as submitted and waive a second reading and move to take action, order changes, or order changes and bring back for a final reading.

The Board Policy Committee recommends adoption of the following board policies with minor edits:

BP 5020	Parent Rights and Responsibilities
BP 5022	Student and Family Privacy Rights
BP 5030	Student Wellness
BP 5111	Admission
BP 5113	Absences and Excuses
BP 5113.1	Chronic Absence and Truancy
BP 5116.2	Involuntary Student Transfers
BP 5121	Grades/Evaluations of Student Achievements
BP 5123	Promotion/Acceleration/Retention
BP 5125	Student Records
BP 5125.1	Release of Directory Information
BP 5126	Awards for Achievement
BP 5131.2	Bullying
BP 5131.6	Alcohol and Other Drugs
BP 5131.62	Tobacco

BP 5131.7	Weapons and Dangerous Instruments
BP 5132	Dressing and Grooming
BP 5141	Health Care and Emergencies
BP 5141.3	Health Examinations
BP 5144.1	Suspension and Expulsion/Due Process
BP 5144.3	Expulsion Appeals
BP 5144.4	Required Parental Attendance
BP 5145.11	Questioning and Apprehension by Law Enforcement
BP 5145.12	Search and Seizure
BP 5145.13	Response to Immigration Enforcement
BP 5145.2	Freedom of Speech/Expression
BP 5145.3	Nondiscrimination/Harassment
BP 5145.7	Sexual Harassment

#### SUPERINTENDENT'S RECOMMENDATION:

Adopt the recommendations of the Board Policy Committee to adopt and remove the proposed policies.

#### FISCAL IMPLICATIONS:

None.



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## MEMO

DATE:	July 9, 2021
TO:	Santa Cruz County Office of Education
FROM:	Board Policy Committee
RE:	Series 5000 Board Policies to Revise or Adopt

## **BACKGROUND:**

The Board Policy Committee has reviewed existing and proposed policies in the 5000 series, pertaining to Students.

The Committee's review was supported by substantial work by Santa Cruz County Office of Education staff, including Jennifer Izant-Gonzales, John Armstrong, Johnny Rice, Jen Buesing, Michael Paynter, Jason Borgen, Debi Bodenheimer, and Superintendent Faris Sabbah.

Note that once the Board acts, it will take some time and work to prepare the policy documents to meet accessibility standards before they are published.

Many of the policies in this series have been revised to reflect new legislation and regulations. The following are policies that the Committee RECOMMENDS be revised from existing policies or adopted:

#### Series 5000 Board Policies to Revise or Adopt

Policy Number and Topic	Staff Review	Notes
5020: Parent Rights And Responsibilities	Jennifer Izant-Gonzales	Policy is mandatory and recommended to adopt as is.
5022: Student And Family Privacy Rights	Jason Borgen	

5030: Student Wellness	MIchael Paynter	Removed optional committee and listed evaluation indicators
5111: Admission	John Armstrong	Not mandatory but recommended policy, kept the essentials and recommend adoption (ie grade level)
5113: Absences and Excuses	Jennifer Izant-Gonzales	Mandatory recommendation to adopt.
5113.1: Chronic Absence and Truancy	Michael Paynter	
5116.2: Involuntary Student Transfers	John Armstrong	Drop Page C (continuation and community Day)
5121: Grades/Evaluation Of Student Achievement	Jennifer Izant-Gonzales	Kept and removed non essential elements not pertaining to us. Minor edits
5123: Promotion/Acceleration/Retention	Debi Bodenheimer	Choose option 1
5125: Student Records	Jennifer Izant-Gonzales	Policy is mandatory and recommended to adopt as is.
5125.1: Release Of Directory Information	John Armstrong	We collect ESEA funds therefore we must select option 1. There is a fairly recent local BP, but it looks like it doesn't cover the required elements.
5126: Awards For Achievement		Accepted with minor edits. Made more permissive
5131.2: Bullying	Michael Paynter	Will need to ensure COE schools are employing needed items outlined in policy re bullying.
5131.6: Alcohol And Other Drugs	Michael Paynter	
5131.62: Tobacco	Jennifer Izant-Gonzales	Policy is consistent with our practices not required and is recommended for adoption
5131.7: Weapons and Dangerous Instruments	Jennifer Izant-Gonzales	

5132: Dress and Grooming	Johnny Rice	
5141: Health Care And Emergencies	Jen Buesing	Need to review first - new*
5141.3: Health Examinations	Jen Buesing	Mandatory - New Revised Policy - Replaces previous Policy 5141.3: Immunizations
5141.52: Suicide Prevention*	Michael Paynter	Mandatory - not included*
5141.6: School Health Services	Jen Buesing	Mandatory - new
5141.7: Sun Safety	Jen Buesing	Mandatory - new
5144.1: Suspension And Expulsion/Due Process	Johnny Rice	Mandatory -minor edits for grade level and lack of in house suspension
5144.3: Expulsion Appeals	Johnny Rice	County Only: Include/exclude options based on COE Class.
5144.4: Required Parental Attendance	Johnny Rice	Where is it?
5145.11: Questioning and Apprehension by Law Enforcement	Johnny Rice	Not required - consistent with practices - existence of the policy would support staff
5145.12: Search and Seizure	Johnny Rice	Not required - consistent with practices - existence of the policy would support staff. Removed lockers and sniffing dogs
5145.13: Response to Immigration Enforcement	Michael Paynter	Changed Shall to may re board reporting and training for staff
5145.2: Freedom Of Speech/Expression	Johnny Rice	Consistent with our practices, Required, reflects laws
5145.3: Nondiscrimination/Harassment	Michael Paynter	Missing?
5145.7: Sexual Harassment	Johnny Rice	Accept as is, but not all programs have a student handbook.

#### Students

## PARENT RIGHTS AND RESPONSIBILITIES

The Santa Cruz County Board of Education (Board) recognizes that parents/guardians of district students have certain rights as well as responsibilities related to the education of their children.

The Board believes that the education of the district's students is a shared responsibility. The Superintendent or designee shall work with parents/guardians, including parents/guardians of English learners, to determine appropriate roles and responsibilities of parents/guardians, school staff and students for continuing the intellectual, physical, emotional and social development and well-being of students at each school site, including the means by which the schools and parents/guardians can help students achieve academic and other standards of the school.

Within this framework, the school's primary responsibility shall be to provide a high-quality curriculum and instructional program in a supportive and effective learning environment that enables all students to meet the academic expectations of the school.

Parents/guardians shall have the opportunity to work with schools in a mutually supportive and respectful partnership and to help their children succeed in school. (Education Code 51100)

(cf. 5022 - Student and Family Privacy Rights) (cf. 6020 - Parent Involvement)

The Superintendent or designee shall ensure that district staff understand the rights of parents/guardians afforded by law and Board policy and follow acceptable practices that respect those rights.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

The Superintendent or designee shall ensure that parents/guardians receive notification regarding their rights in accordance with law.

(cf. 5145.6 - Parental Notifications)

#### PARENT RIGHTS AND RESPONSIBILITIES (continued)

The Superintendent or designee shall take all reasonable steps to ensure that all parents/guardians who speak a language other than English are properly notified in English, and in their home language of the rights and opportunities available to them pursuant to Education Code 48985. (Education Code 51101.1)

Legal Reference:

EDUCATION CODE 33126 School accountability report card 35291 Disciplinary rules 48070.5 Promotion and retention of students 48985 Notice to parent in language other than English 49091.10-49091.19 Parental review of curriculum and instruction 49602 Confidentiality of pupil information 51100-51102 Parent/guardian rights 51513 Personal beliefs 60510 Disposal of surplus instructional materials <u>UNITED STATES CODE, TITLE 20</u> 1232g Family Educational Rights and Privacy Act 1232h Protection of pupil rights

Management Resources:

<u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov

### SANTA CRUZ COUNTY BOARD OF EDUCATION Santa Cruz, California BP 5022(a)

Students

## STUDENT AND FAMILY PRIVACY RIGHTS

The Santa Cruz County Board of Education (Board) respects the rights of district students and their parents/guardians with regard to the privacy of their personal beliefs and the confidentiality of their personal information.

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 5021 - Noncustodial Parents)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)
(cf. 6162.8 - Research)

The Superintendent or designee may collect, disclose, or use students' personal information for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as the following: (20 USC 1232h)

- 1. College or other postsecondary education recruitment or military recruitment
- 2. Book clubs, magazines, and programs providing access to low-cost literary products
- 3. Curriculum and instructional materials used by elementary and secondary schools
- 4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments

(cf. 6162.5 - Student Assessment) (cf. 6162.51 - State Academic Achievement Tests)

- 5. The sale by students of products or services to raise funds for school-related or educationrelated activities
- (cf. 1321 Solicitation of Funds from and by Students)
- 6. Student recognition programs

#### (cf. 5126 - Awards for Achievement)

The Superintendent or designee is prohibited from collecting, disclosing, or using a student's individually identifiable information, including his/her name, parent/guardian's name, home or other physical address, telephone number, or social security number, for the purpose of marketing or selling that information or providing the information to others for that purpose.

## **STUDENT AND FAMILY PRIVACY RIGHTS** (continued)

The district shall not use surveys to collect social security numbers or the last four digits of social security numbers, or information or documents regarding citizenship or immigration status, of students or their families. (Education Code 234.7, 49076.7)

The Superintendent or designee shall consult with parents/guardians regarding the development of regulations pertaining to other uses of personal information, which shall, at a minimum, address the following: (20 USC 1232h)

- 1. Arrangements for protecting student privacy when collecting, disclosing, or using students' individually identifiable information for any purpose
- 2. Arrangements to protect student privacy in the administration of surveys that may request information about the personal beliefs and practices of students and their families
- 3. The rights of parents/guardians to inspect the following, and any applicable procedures for granting reasonable access to the following in a reasonable period of time:
  - a. Survey instruments requesting information about their personal beliefs and practices or those of their children
  - b. Instructional materials used as part of their children's educational curriculum
- 4. Any nonemergency physical examinations or screenings that the school may administer
- (cf. 0420 School Plans/Site Councils) (cf. 1220 - Citizen Advisory Committee) (cf. 1230 - School-Connected Organizations)

The Superintendent or designee shall notify parents/guardians of the adoption or continued use of the district's policy pertaining to the rights specified in items #1-4 above. (20 USC 1232h)

(cf. 5145.6 - Parental Notifications)

Legal Reference: (see next page)

#### BP 5022(c)

### STUDENT AND FAMILY PRIVACY RIGHTS (continued)

Legal Reference:

EDUCATION CODE234.7 Student protections relating to immigration and citizenship status49076.7 Privacy of student records; social security numbers49450-49458 Physical examinations49602 Confidentiality of personal information received during counseling51101 Parents Rights Act of 200251513 Test, questionnaire, survey, or examination concerning personal beliefs51514 Nonremoval of survey questions pertaining to sexual orientation or gender identity51938 Sexual Health and HIV/AIDS Prevention Education Act; notice and parental excuseUNITED STATES CODE, TITLE 201232g Family Educational Rights and Privacy Act1232h Protection of pupil rights

Management Resources:

<u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov U.S. Department of Education, Family Policy Compliance Office: http://www.ed.gov/offices/OM/fpco

#### SANTA CRUZ COUNTY BOARD OF EDUCATION Santa Cruz, California BP 5030(a)

#### Students

#### STUDENT WELLNESS

The Santa Cruz County Board of Education (Board) recognizes the link between student health and learning and desires to provide a comprehensive program promoting healthy eating and physical activity for district students. The Superintendent or designee shall coordinate and align district efforts to support student wellness through health education, physical education and activity, health services, nutrition services, psychological and counseling services, and a safe and healthy school environment. In addition, the Superintendent or designee shall develop strategies for promoting staff wellness and for involving parents/guardians and the community in reinforcing students' understanding and appreciation of the importance of a healthy lifestyle.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3514 - Environmental Safety)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.61 - Drug Testing)
(cf. 5131.62 - Tobacco)
(cf. 5131.63 - Steroids)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.31 - Health Examinations)
(cf. 5141.32 - Health Screening for School Entry)
(cf. 5141.6 - School Health Services)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Education)
(cf. 6164.2 - Guidance/Counseling Services)

#### **School Wellness Council**

The Superintendent or designee shall encourage parents/guardians, students, food service employees, physical education teachers, school health professionals, Board members, school administrators, and members of the public to participate in the development, implementation, and periodic review and update of the district's student wellness policy. (42 USC 1758b; 7 CFR 210.31)

#### Goals for Nutrition, Physical Activity, and Other Wellness Activities

The Board shall adopt specific goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. In developing such goals, the Board shall review and consider evidence-based strategies and techniques. (42 USC 1758b; 7 CFR 210.30)

(cf. 0000 - Vision) (cf. 0200 - Goals for the School District

The district's nutrition education and physical education programs shall be based on research, shall be consistent with the expectations established in the state's curriculum frameworks and content standards, and shall be designed to build the skills and knowledge that all students need to maintain a healthy lifestyle.

(cf. 6011 - Academic Standards) (cf. 6142.7 - Physical Education and Activity) (cf. 6142.8 - Comprehensive Health Education) (cf. 6143 - Courses of Study)

The nutrition education program shall include, but is not limited to, information about the benefits of healthy eating for learning, disease prevention, weight management, and oral health. Nutrition education shall be provided as part of the health education program and, as appropriate, shall be integrated into other academic subjects in the regular educational program, before- and after-school programs, summer learning programs, and school garden programs.

(cf. 5148.2 - Before/After School Programs) (cf. 6177 - Summer Learning Programs)

All students shall be provided opportunities to be physically active on a regular basis. Opportunities for moderate to vigorous physical activity shall be provided through physical education and recess and may also be provided through school athletic programs, extracurricular programs, before- and after-school programs, summer learning programs, programs encouraging students to walk or bicycle to and from school, in-class physical activity breaks, and other structured and unstructured activities.

(cf. 5142.2 - Safe Routes to School Program) (cf. 6145 - Extracurricular and Cocurricular Activities) (cf. 6145.2 - Athletic Competition)

The Board may enter into a joint use agreement or memorandum of understanding to make district facilities or grounds available for recreational or sports activities outside the school day and/or to use community facilities to expand students' access to opportunity for physical activity.

(cf. 1330.1 - Joint Use Agreements)

Professional development may be regularly offered to the nutrition program director, managers, and staff, as well as health education teachers, physical education teachers, coaches, activity supervisors, and other staff as appropriate to enhance their knowledge and skills related to student health and wellness.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

In order to ensure that students have access to comprehensive health services, the district may provide access to health services at or near district schools and/or may provide referrals to community resources.

The Board recognizes that a safe, positive school environment is also conducive to students' physical and mental health and thus prohibits bullying and harassment of all students, including bullying on the basis of weight or health condition.

(cf. 5131.2 - Bullying) (cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee shall encourage staff to serve as positive role models for healthy eating and physical fitness. He/she shall promote work-site wellness programs and may provide opportunities for regular physical activity among employees.

#### Nutrition Guidelines for All Foods Available at School

For all foods and beverages available on each campus during the school day, the district shall adopt nutrition guidelines which are consistent with 42 USC 1758, 1766, 1773, and 1779 and federal regulations and which support the objectives of promoting student health and reducing childhood obesity. (42 USC 1758b)

In order to maximize the district's ability to provide nutritious meals and snacks, all district schools shall participate in available federal school nutrition programs, including the National School Lunch and School Breakfast Programs and after-school snack programs, to the extent possible. When approved by the California Department of Education, the district may sponsor a summer meal program.

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3552 - Summer Meal Program)
(cf. 3553 - Free and Reduced Price Meals)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)
(cf. 5148 - Child Care and Development)
(cf. 5148.3 - Preschool/Early Childhood Education)

The Superintendent or designee shall provide access to free, potable water in the food service area during meal times in accordance with Education Code 38086 and 42 USC 1758, and shall encourage students' consumption of water by educating them about the health benefits of water and by serving water in an appealing manner.

The Board believes that all foods and beverages sold to students at district schools, including those available outside the district's reimbursable food services program, should support the health curriculum and promote optimal health. Nutrition standards adopted by the district for foods and beverages provided through student stores, vending machines, or other venues shall meet or exceed state and federal nutrition standards.

(cf. 3312 - Contracts) (cf. 3554 - Other Food Sales)

The Superintendent or designee shall encourage school organizations to use healthy food items or non-food items for fundraising purposes.

He/she also shall encourage school staff to avoid the use of non-nutritious foods as a reward for students' academic performance, accomplishments, or classroom behavior.

School staff shall encourage parents/guardians or other volunteers to support the district's nutrition education program by considering nutritional quality when selecting any snacks which they may donate for occasional class parties. Class parties or celebrations shall be held after the lunch period when possible.

To reinforce the district's nutrition education program, the Board prohibits the marketing and advertising of foods and beverages that do not meet nutrition standards for the sale of foods and beverages on campus during the school day. (Education Code 49431.9; 7 CFR 210.31)

(cf. 1325 - Advertising and Promotion)

#### **Program Implementation and Evaluation**

The Superintendent designates the individual(s) identified below as the individual(s) responsible for ensuring that each school site complies with the district's wellness policy. (42 USC 1758b; 7 CFR 210.30)

Senior Director, ALT ED (831) 466-5600

(cf. 0500 - Accountability) (cf. 3555 - Nutrition Program Compliance)

The Superintendent or designee shall assess the implementation and effectiveness of this policy at least once every three years. (42 USC 1758b; 7 CFR 210.30)

The assessment shall include the extent to which district schools are in compliance with this policy, the extent to which this policy compares to model wellness policies available from the U.S. Department of Agriculture, and a description of the progress made in attaining the goals of the wellness policy. (42 USC 1758b)

The Superintendent or designee shall invite feedback on district and school wellness activities from food service personnel, school administrators, the wellness council, parents/guardians, students, teachers, before- and after-school program staff, and/or other appropriate persons.

In addition, the Superintendent or designee shall prepare and maintain the proper documentation and records needed for the administrative review of the district's wellness policy conducted by the California Department of Education (CDE) every three years.

The assessment results of both the district and state evaluations shall be submitted to the Board for the purposes of evaluating policy and practice, recognizing accomplishments, and making policy adjustments as needed to focus district resources and efforts on actions that are most likely to make a positive impact on student health and achievement.

#### Notifications

The Superintendent or designee shall inform the public about the content and implementation of the district's wellness policy and shall make the policy, and any updates to the policy, available the public on an annual basis. He/she shall also inform the public of the district's progress towards meeting the goals of the wellness policy, including the availability of the triennial district assessment. (Education Code 49432; 42 USC 1758b; 7 CFR 210.30)

(cf. 5145.6 - Parental Notifications)

#### Records

The Superintendent or designee shall retain records that document compliance with 7 CFR 210.31, including, but not limited to, the written student wellness policy, documentation of the triennial assessment of the wellness policy for each school site, and documentation demonstrating compliance with the community involvement requirements, including requirements to make the policy and assessment results available to the public. (7 CFR 210.31)

Legal Reference: (see next page)

#### BP 5030(f)

#### **STUDENT WELLNESS** (continued)

Legal Reference:

EDUCATION CODE 33350-33354 CDE responsibilities re: physical education 38086 Free fresh drinking water 49430-49434 Pupil Nutrition, Health, and Achievement Act of 2001 49490-49494 School breakfast and lunch programs 49500-49505 School meals 49510-49520 Nutrition 49530-49536 Child Nutrition Act 49540-49546 Child care food program 49547-49548.3 Comprehensive nutrition services 49550-49562 Meals for needy students 49565-49565.8 California Fresh Start pilot program 49570 National School Lunch Act 51210 Course of study, grades 1-6 51210.1-51210.2 Physical education, grades 1-6 51210.4 Nutrition education 51220 Course of study, grades 7-12 51222 Physical education 51223 Physical education, elementary schools 51795-51798 School instructional gardens 51880-51921 Comprehensive health education CODE OF REGULATIONS, TITLE 5 15500-15501 Food sales by student organizations 15510 Mandatory meals for needy students 15530-15535 Nutrition education 15550-15565 School lunch and breakfast programs UNITED STATES CODE, TITLE 42 1751-1769; National School Lunch Program, especially: 1758b Local wellness policy 1771-1793 Child Nutrition Act, especially: 1773 School Breakfast Program 1779 Rules and regulations, Child Nutrition Act CODE OF FEDERAL REGULATIONS, TITLE 7 210.1-210.33 National School Lunch Program, especially: 210.31 Wellness policy 220.1-220.22 National School Breakfast Program COURT DECISIONS Frazer v. Dixon Unified School District, (1993) 18 Cal.App.4th 781

Management Resources: (see next page)

#### Management Resources:

CSBA PUBLICATIONS Integrating Physical Activity into the School Day, Governance Brief, April 2016 Increasing Access to Drinking Water in Schools, Policy Brief, April 2013 Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012 Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. April 2012 Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2012 Physical Activity and Physical Education in California Schools, Research Brief, April 2010 Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009 Safe Routes to School: Program and Policy Strategies for School Districts, Policy Brief, 2009 Physical Education and California Schools, Policy Brief, rev. October 2007 School-Based Marketing of Foods and Beverages: Policy Implications for School Boards, Policy Brief, March 2006 CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS Physical Education Framework for California Public Schools, Kindergarten Through Grade Twelve, 2009 Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003 CALIFORNIA PROJECT LEAN PUBLICATIONS Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006 CENTER FOR COLLABORATIVE SOLUTIONS Changing Lives, Saving Lives: A Step-by-Step Guide to Developing Exemplary Practices in Healthy Eating, Physical Activity and Food Security in Afterschool Programs, January 2015 CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide, rev. 2012 FEDERAL REGISTER Rules and Regulations, July 29, 2016, Vol. 81, Number 146, pages 50151-50170 NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS Fit, Healthy and Ready to Learn, rev. 2012 U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS Dietary Guidelines for Americans, 2016

Management Resources continued: (see next page)

#### Management Resources: (continued)

WEB SITES

CSBA: http://www.csba.org Action for Healthy Kids: http://www.actionforhealthykids.org Alliance for a Healthier Generation: http://www.healthiergeneration.org California Department of Education, Nutrition Services Division: http://www.cde.ca.gov/ls/nu California Department of Public Health: http://www.cdph.ca.gov California Healthy Kids Resource Center: http://www.californiahealthykids.org California Project LEAN (Leaders Encouraging Activity and Nutrition): http://www.californiaprojectlean.org California School Nutrition Association: http://www.calsna.org Center for Collaborative Solutions: http://www.ccscenter.org Centers for Disease Control and Prevention: http://www.cdc.gov Dairy Council of California: http://www.dairycouncilofca.org National Alliance for Nutrition and Activity: http://www.cspinet.org/nutritionpolicy/nana.html National Association of State Boards of Education: http://www.nasbe.org School Nutrition Association: http://www.schoolnutrition.org Society for Nutrition Education: http://www.sne.org U.S. Department of Agriculture, Food Nutrition Service, wellness policy: http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html U.S. Department of Agriculture, Healthy Meals Resource System: http://healthymeals.fns.usda.gov Policy adopted: **Students** 

#### ADMISSION

The Santa Cruz County Board of Education (Board) encourages the enrollment and appropriate placement of all school-aged children in school.

All appropriate staff shall receive training on district admission policies and procedures, including information regarding the types of documentation that can and cannot be requested.

The district's enrollment application shall include information about the health care options and enrollment assistance available to families within the district. The district shall not discriminate against any child for not having health care coverage and shall not use any information relating to a child's health care coverage or his/her interest in learning about health care coverage in any manner that would harm the child or his/her family. (Education Code 49452.9)

#### Verification of Admission Eligibility

Before enrolling any child in a district school, the Superintendent or designee shall verify the child's age, residency, immunization, and other applicable eligibility criteria specified in law, the accompanying administrative regulation, or other applicable Board policy or administrative regulation.

(cf. 5111.1 - District Residency)
(cf. 5125 - Student Records)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)

The district shall not inquire into or request documentation of a student's social security number or the last four digits of the social security number or the citizenship or immigration status of the student or his/her family members. (Education Code 234.7, 49076.7)

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 5145.13 - Response to Immigration Enforcement) (cf. 5145.3 - Nondiscrimination/Harassment)

However, such information may be collected when required by state or federal law or to comply with requirements for special state or federal programs. In any such situation, the information shall be collected separately from the school enrollment process and the Superintendent or designee shall explain the limited purpose for which the information is collected. Enrollment in a district school shall not be denied on the basis of any such information of the student or his/her parents/guardians obtained by the district, or the student's or parent/guardian's refusal to provide such information to the district.

Legal Reference: (see next page)

#### BP 5111(b)

#### **ADMISSION** (continued)

#### Legal Reference:

EDUCATION CODE 234.7 Student protections relating to immigration and citizenship status 46300 Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten 46600 Agreements for admission of students desiring interdistrict attendance 48000 Minimum age of admission (kindergarten) 48002 Evidence of minimum age required to enter kindergarten or first grade 48010 Minimum age of admission (first grade) 48011 Admission from kindergarten or other school; minimum age 48050-48053 Nonresidents 48200 Children between ages of 6 and 18 years (compulsory full-time education) 48350-48361 Open Enrollment Act 48645.5 Enrollment of former juvenile court school students 48850-48859 Educational placement of homeless and foster youth 49076 Access to records by persons without written consent or under judicial order 49076.7 Student records; data privacy; social security numbers 49408 Information of use in emergencies 49452.9 Health care coverage options and enrollment assistance 49700-49703 Education of children of military families HEALTH AND SAFETY CODE 120325-120380 Education and child care facility immunization requirements 121475-121520 Tuberculosis tests for students CODE OF REGULATIONS, TITLE 5 200 Promotion from kindergarten to first grade 201 Admission to high school CODE OF REGULATIONS, TITLE 17 6000-6075 School attendance immunization requirements UNITED STATES CODE, TITLE 5 552a Note Refusal to disclose social security number UNITED STATES CODE, TITLE 42 11431-11435 McKinney-Vento Homeless Assistance Act COURT DECISIONS <u>Plyler v. Doe</u>, 457 U.S. 202 (1982)

Management Resources: (see next page)

#### BP 5111(c)

## ADMISSION (continued)

Management I	Resources:
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CSBA PUBLICATIONS Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017 CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018 U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION AND U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS JOINT PUBLICATIONS Dear Colleague Letter: School Enrollment Procedures, May 8, 2014 Fact Sheet: Information on the Rights of All Children to Enroll in School, May 8, 2014 Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, May 8, 2014 WEB SITES CSBA: http://www.csba.org California Department of Education, Health Care Coverage and Enrollment Assistance: http://www.cde.ca.gov/ls/he/hc California Office of the Attorney General: http://oag.ca.gov U.S. Department of Education, Office for Civil Rights: http://www2.ed.gov/about/offices/list/ocr U.S. Department of Justice: https://www.justice.gov

Policy adopted: **Students** 

#### **ABSENCES AND EXCUSES**

The Santa Cruz County Board of Education (Board) believes that regular attendance plays an important role in student achievement. The Board shall work with parents/guardians and students to ensure their compliance with all state attendance laws and may use appropriate legal means to correct problems of chronic absence or truancy.

(cf. 5112.1 - Exemptions from Attendance)
(cf. 5112.2 - Exclusions from Attendance)
(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 6154 - Homework/Makeup Work)

Absence from school shall be excused only for health reasons, family emergencies, and justifiable personal reasons, as permitted by law, Board policy, and administrative regulation. (Education Code 48205)

Student absence for religious instruction or participation in religious exercises away from school property may be considered excused subject to law and administrative regulation. (Education Code 46014)

Inasmuch as school attendance and class participation are integral to students' learning experiences, parents/guardians and students shall be encouraged to schedule medical and other appointments during non-school hours.

Students shall not be absent from school without their parents/guardians' knowledge or consent, except in cases of medical emergency or, as authorized pursuant to Education Code 46010.1, for a confidential medical appointment.

The Board shall, by resolution entered into its minutes, approve reasonable methods that may be used to verify student absences due to illness or quarantine. (5 CCR 421)

Legal Reference: (see next page)
### BP 5113(b)

#### **ABSENCES AND EXCUSES** (continued)

Legal Reference:

EDUCATION CODE 1740 Employment of personnel to supervise attendance (county superintendent) 37201 School month 37223 Weekend classes 41601 Reports of average daily attendance 42238-42250.1 Apportionments 46000 Records (attendance) 46010-46014 Absences 46100-46119 Attendance in kindergarten and elementary schools 46140-46147 Attendance in junior high and high schools 48200-48208 Children ages 6-18 (compulsory full-time attendance) 48210-48216 Exclusions from attendance 48225.5 Work permit; excused absence; entertainment or allied industries 48240-48246 Supervisors of attendance 48260-48273 Truants 48292 Filing complaint against parent 48320-48324 School attendance review boards 48340-48341 Improvement of student attendance 48980 Parental notifications 49067 Unexcused absences as cause of failing grade 49701 Provisions of the interstate compact on educational opportunities for military children ELECTIONS CODE 12302 Student participation on precinct boards FAMILY CODE 6920-6929 Consent by minor for medical treatment VEHICLE CODE 13202.7 Driving privileges; minors; suspension or delay for habitual truancy WELFARE AND INSTITUTIONS CODE 601-601.4 Habitually truant minors 11253.5 Compulsory school attendance CODE OF REGULATIONS, TITLE 5 306 Explanation of absence 420-421 Record of verification of absence due to illness and other causes ATTORNEY GENERAL OPINIONS 87 Ops.Cal.Atty.Gen. 168 (2004) 66 Ops.Cal.Atty.Gen. 244 (1983) COURT DECISIONS American Academy of Pediatrics et al v. Lungren et al (1997) 16 Cal.4th 307

Management Resources:

<u>CSBA PUBLICATIONS</u> <u>Improving Student Achievement by Addressing Chronic Absence</u>, Policy Brief, December 2010 <u>WEB SITES</u> CSBA: http://www.csba.org

#### CHRONIC ABSENCE AND TRUANCY

The Santa Cruz County Board of Education (Board) believes that absenteeism, whatever the cause, may be an early warning sign of poor academic achievement and may put students at risk of dropping out of school. The Board desires to ensure that all students attend school in accordance with the state's compulsory education law and take full advantage of educational opportunities provided by the district.

(cf. 5113 - Absences and Excuses) (cf. 5113.11 - Attendance Supervision)

The Superintendent or designee shall establish a system to accurately track student attendance in order to identify individual students who are chronic absentees and truants, as defined in law and administrative regulation, and to identify patterns of absence throughout the district. He/she shall provide the Board with data on school attendance, chronic absence, and truancy rates districtwide, for each school, and disaggregated for each numerically significant student subgroup as defined in Education Code 52052. Such data shall be used in the development of annual goals and specific actions for student attendance and engagement to be included in the district's local control and accountability plan and other applicable school and district plans.

(cf. 0400 - Comprehensive Plans) (cf. 0420 - School Plans/Site Councils) (cf. 0450 - Comprehensive Safety Plan) (cf. 0460 - Local Control and Accountability Plan) (cf. 0500 - Accountability)

The Superintendent or designee shall develop strategies that focus on prevention of attendance problems, which may include, but are not limited to, efforts to provide a safe and positive school environment, relevant and engaging learning experiences, school activities that help develop students' feelings of connectedness with the school, school-based health services, and incentives and rewards to recognize students who achieve excellent attendance or demonstrate significant improvement in attendance. The Superintendent or designee also shall develop strategies that enable early outreach to students as soon as they show signs of poor attendance.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5126 - Awards for Achievement)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5137 - Positive School Climate)
(cf. 5141.6 - School Health Services)
(cf. 5145.3 - Nondiscrimination/Harassment)

# CHRONIC ABSENCE AND TRUANCY (continued)

The Superintendent or designee shall consult with students, parents/guardians, school staff, and community agencies, as appropriate, to identify factors contributing to chronic absence and truancy.

Interventions for students with serious attendance problems shall be designed to meet the specific needs of the student and may include, but are not limited to, health care referrals, transportation assistance, counseling for mental or emotional difficulties, academic supports, efforts to address school or community safety concerns, discussions with the student and parent/guardian about their attitudes regarding schooling, or other strategies to remove identified barriers to school attendance. The Superintendent or designee may collaborate with child welfare services, law enforcement, courts, public health care agencies, other government agencies, and/or medical, mental health, and oral health care providers to make alternative educational programs and support services available for students and families.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools) (cf. 5030 - Student Wellness) (cf. 5146 - Married/Pregnant/Parenting Students) (cf. 5147 - Dropout Prevention) (cf. 6158 - Independent Study) (cf. 6164.2 - Guidance/Counseling Services) (cf. 6164.5 - Student Success Teams) (cf. 6173 - Education for Homeless Children) (cf. 6173.1 - Education for Foster Youth) (cf. 6173.2 - Education of Children of Military Families) (cf. 6175 - Migrant Education Program) (cf. 6179 - Supplemental Instruction) (cf. 6181 - Alternative Schools/Programs of Choice) (cf. 6183 - Home and Hospital Instruction) (cf. 6184 - Continuation Education) (cf. 6185 - Community Day School)

Students who are identified as truant shall be subject to the interventions specified in law and administrative regulation.

(cf. 5113.12 - District School Attendance Review Board)

A student's truancy, tardiness, or other absence from school shall not be the basis for his/her suspension or expulsion. Alternative strategies and positive reinforcement for attendance shall be used whenever possible.

(cf. 5144 - Discipline) (cf. 5144.1 - Suspension and Expulsion/Due Process)

The Superintendent or designee shall periodically report to the Board regarding the district's progress in improving student attendance rates for all students and for each numerically significant student population. Such information shall be used to evaluate the effectiveness of strategies implemented to reduce chronic absence and truancy and to make changes as needed. As

### CHRONIC ABSENCE AND TRUANCY (continued)

appropriate, the Superintendent or designee shall engage school staff in program evaluation and improvement and in the determination of how to best allocate available community resources.

Legal Reference:

EDUCATION CODE 1740-1742 Employment of personnel to supervise attendance (county superintendent) 37223 Weekend classes 46000 Records (attendance) 46010-46014 Absences 46110-46119 Attendance in kindergarten and elementary schools 46140-46147 Attendance in junior high and high schools 48200-48208 Children ages 6-18 (compulsory full-time attendance) 48225.5 Work permits, entertainment and allied industries 48240-48246 Supervisors of attendance 48260-48273 Truants 48290-48297 Failure to comply; complaints against parents 48320-48325 School attendance review boards 48340-48341 Improvement of student attendance 48400-48403 Compulsory continuation education 48900 Suspension and expulsion 49067 Unexcused absences as cause of failing grade 52052 Accountability; numerically significant student subgroups 60901 Chronic absence **GOVERNMENT CODE** 54950-54963 The Ralph M. Brown Act PENAL CODE 270.1 Chronic truancy; parent/guardian misdemeanor 272 Parent/guardian duty to supervise and control minor child; criminal liability for truancy 830.1 Peace officers VEHICLE CODE 13202.7 Driving privileges; minors; suspension or delay for habitual truancy WELFARE AND INSTITUTIONS CODE 256-258 Juvenile hearing officer 601-601.4 Habitually truant minors 11253.5 Compulsory school attendance CODE OF REGULATIONS, TITLE 5 *306 Explanation of absence* 420-421 Record of verification of absence due to illness and other causes COURT DECISIONS L.A. v. Superior Court of San Diego County, (2012) 209 Cal.App.4th 976

Management Resources: (see next page)

# CHRONIC ABSENCE AND TRUANCY (continued)

Management Resources:

CSBA PUBLICATIONS Attendance Awareness Month, Fact Sheet, September 2014 ATTENDANCE WORKS PUBLICATIONS Count Us In! Working Together to Show that Every School Day Matters, 2014 The Power of Positive Connections: Reducing Chronic Absence Through PEOPLE: Priority Early Outreach for Positive Linkages and Engagement, 2014 CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS School Attendance Review Board Handbook: A Road Map for Improved School Attendance and Behavior, 2015 School Attendance Improvement Handbook, 2000 WEB SITES CSBA: http://www.csba.org Attendance Works: http://www.attendanceworks.org California Association of Supervisors of Child Welfare and Attendance: http://www.cascwa.org California Department of Education: http://www.cde.ca.gov California Healthy Kids Survey: http://chks.wested.org

California School Climate, Health, and Learning Survey System: http://www.cal-schls.wested.org

# INVOLUNTARY STUDENT TRANSFERS

The Santa Cruz County Board of Education (Board) desires to enroll students in the school of their choice, but recognizes that circumstances sometimes necessitate the involuntary transfer of some students to another school or program in the district. The Superintendent or designee shall develop procedures to facilitate the transition of such students into their new school of enrollment.

(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6173.3 - Education for Juvenile Court School Students)

As applicable, when determining the best placement for a student who is subject to involuntary transfer, the Superintendent or designee shall review all educational options for which the student is eligible, the student's academic progress and needs, the enrollment capacity at district schools, and the availability of support services and other resources.

Whenever a student is involuntarily transferred, the Superintendent or designee shall provide timely written notification to the student and his/her parent/guardian and an opportunity for the student and parent/guardian to meet with the Superintendent or designee to discuss the transfer.

## **Students Convicted of Violent Felony or Misdemeanor**

A student may be transferred to another district school if he/she is convicted of a violent felony, as defined in Penal Code 667.5(c), or a misdemeanor listed in Penal Code 29805 and is enrolled at the same school as the victim of the crime for which he/she was convicted. (Education Code 48929)

Before transferring such a student, the Superintendent or designee shall attempt to resolve the conflict using restorative justice, counseling, or other such services. He/she shall also notify the student and his/her parents/guardians of the right to request a meeting with the principal or designee. (Education Code 48929)

(cf. 5138 - Conflict Resolution/Peer Mediation) (cf. 5144 - Discipline) (cf. 6164.2 - Guidance and Counseling Services)

Participation of the victim in any conflict resolution program shall be voluntary, and he/she shall not be subjected to any disciplinary action for his/her refusal to participate in conflict resolution.

The principal or designee shall submit to the Superintendent or designee a recommendation as to whether or not the student should be transferred. If the Superintendent or designee determines that

# **INVOLUNTARY STUDENT TRANSFERS** (continued)

a transfer would be in the best interest of the students involved, he/she shall submit such recommendation to the Board for approval.

The Board shall deliberate in closed session to maintain the confidentiality of student information, unless the parent/guardian or adult student submits a written request that the matter be addressed in open session and doing so would not violate the privacy rights of any other student. The Board's decision shall be final.

#### (cf. 9321 - Closed Session Purposes and Agendas)

The decision to transfer a student shall be subject to periodic review by the Superintendent or designee.

The Superintendent or designee shall annually notify parents/guardians of the district's policy authorizing the transfer of a student pursuant to Education Code 48929. (Education Code 48980)

(cf. 5145.6 - Parental Notifications)

Legal Reference:

EDUCATION CODE35146 Closed sessions; student matters48430-48438 Continuation classes, especially:48432.5 Involuntary transfer to continuation school48660-48666 Community day schools, especially:48662 Involuntary transfer to community day school48900 Grounds for suspension and expulsion48929 Transfer of student convicted of violent felony or misdemeanor48980 Notice at beginning of termPENAL CODE667.5 Violent felony, definition29805 Misdemeanors involving firearmsWELFARE AND INSTITUTIONS CODE300 Minors subject to jurisdiction602 Minors violating laws defining crime; ward of court

Management Resources:

<u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov Policy adopted: **Students** 

## **GRADES/EVALUATION OF STUDENT ACHIEVEMENT**

The Santa Cruz County Board of Education (Board) believes that grades serve a valuable instructional purpose by helping students and parents/guardians understand performance expectations and identifying the student's areas of strength and those areas needing improvement. Parents/guardians and students have the right to receive course grades that represent an accurate evaluation of the student's academic performance.

(cf. 5020 - Parent Rights and Responsibilities) (cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

Teachers shall inform students and parents/guardians how academic performance will be evaluated in the classroom.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

At all grade levels, report cards may include reports of student progress on specific academic standards applicable to the course and grade level.

BP 5121(b)

### **GRADES/EVALUATION OF STUDENT ACHIEVEMENT** (continued)

Legal Reference:

EDUCATION CODE 48070 Promotion and retention 48205 Excused absences 48800-48802 Enrollment of gifted students in community college 48904-48904.3 Withholding grades, diplomas, or transcripts 49066 Grades; finalization; physical education class 49067 Mandated regulations regarding student's achievement 49069.5 Students in foster care, grades and credits 51242 Exemption from physical education based on participation in interscholastic athletics 69432.9 Cal Grant program; notification of grade point average 76000-76002 Enrollment in community college CODE OF REGULATIONS, TITLE 5 10060 Criteria for reporting physical education achievement, high schools 30008 Definition of high school grade point average for student aid eligibility UNITED STATES CODE, TITLE 20 1232g Family Education Rights and Privacy Act (FERPA) CODE OF FEDERAL REGULATIONS, TITLE 34 99.1-99.67 Family Educational Rights and Privacy Act COURT DECISIONS Owasso Independent School District v. Falvo, (2002) 534 U.S. 426 Las Virgenes Educators Association v. Las Virgenes Unified School District, (2001) 86 Cal.App.4th 1 Swany v. San Ramon Valley Unified School District, (1989) 720 F.Supp. 764 <u>Johnson v. Santa Monica-Malibu Unified School District Board of Education</u>, (1986) 179 Cal.App.3d 593

#### Management Resources:

CSBA PUBLICATIONS

<u>Research-Supported Strategies to Improve the Accuracy and Fairness of Grades</u>, Governance Brief, July 2016

U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS CORRESPONDENCE

Report Cards and Transcripts for Students with Disabilities, October 17, 2008

WEB SITES

CSBA: http://www.csba.org

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

California Student Aid Commission: http://www.csac.ca.gov

U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

# **PROMOTION/ACCELERATION/RETENTION**

The Santa Cruz County Board of Education (Board) expects students to progress through each grade level within one school year. Toward this end, instruction shall be designed to accommodate the variety of ways that students learn and provide strategies for addressing academic deficiencies as needed.

Students shall progress through the grade levels by demonstrating growth in learning and meeting grade-level standards of expected student achievement.

(cf. 6011 - Academic Standards) (cf. 6146.1 - High School Graduation Requirements) (cf. 6146.5 - Elementary/Middle School Graduation Requirements) (cf. 6170.1 - Transitional Kindergarten)

When high academic achievement is evident, the teacher may recommend a student for acceleration to a higher grade level. The student's maturity level shall be taken into consideration in making a determination to accelerate a student.

Teachers shall identify students who should be retained or who are at risk of being retained at their current grade level as early as possible in the school year and as early in their school careers as practicable. Such students shall be identified at the following grade levels: (Education Code 48070.5)

- 1. Between grades 2 and 3
- 2. Between grades 3 and 4
- 3. Between grades 4 and 5
- 4. Between the end of the intermediate grades and the beginning of the middle school grades
- 5. Between the end of the middle school grades and the beginning of the high school grades

Students shall be identified for retention on the basis of failure to meet minimum levels of proficiency, as indicated by grades and the following additional indicators of academic achievement:

#### Teacher and benchmark assessments

#### (cf. 5121 - Grades/Evaluation of Student Achievement)

# **PROMOTION/ACCELERATION/RETENTION** (continued)

Students between grades 2 and 3 and grades 3 and 4 shall be identified primarily on the basis of their level of proficiency in reading. Proficiency in reading, English language arts, and mathematics shall be the basis for identifying students between grades 4 and 5, between intermediate and middle school grades, and between middle school grades and high school grades. (Education Code 48070.5)

(cf. 6142.91 - Reading/Language Arts Instruction) (cf. 6142.92 - Mathematics Instruction)

If a student does not have a single regular classroom teacher, the Superintendent or designee shall specify the teacher(s) responsible for the decision to promote or retain the student. (Education Code 48070.5)

The teacher's decision to promote or retain a student may be appealed in accordance with AR 5123 - Promotion/Acceleration/Retention.

When any student in grades 2-9 is recommended for retention or is identified as being at risk for retention, the Superintendent or designee shall offer an appropriate program of remedial instruction to assist the student in meeting grade-level expectations. (Education Code 48070.5)

(cf. 6176 - Weekend/Saturday Classes) (cf. 6177 - Summer Learning Programs) (cf. 6179 - Supplemental Instruction)

#### BP 5123(c)

# **PROMOTION/ACCELERATION/RETENTION** (continued)

Legal Reference:

EDUCATION CODE 46300 Method of computing average daily attendance 48010 Admittance to first grade 48011 Promotion/retention following one year of kindergarten 48070-48070.5 Promotion and retention 56345 Elements of individualized education program 60640-60649 California Assessment of Student Performance and Progress <u>CODE OF REGULATIONS, TITLE 5</u> 200-202 Admission and exclusion of students

Management Resources:

<u>CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS</u> FAQs Promotion, Retention, and Grading (students with disabilities) FAQs Pupil Promotion and Retention Kindergarten Continuance Form <u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov

### **STUDENT RECORDS**

The Santa Cruz County Board of Education (Board) recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall establish administrative regulations governing the identification, collection, retention, and security of student records. These regulations shall ensure the rights of authorized persons to have timely access to student records while maintaining the confidentiality of student records consistent with state and federal law.

(cf. 3580 - District Records) (cf. 4040 - Employee Use of Technology) (cf. 5125.1 - Release of Directory Information) (cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated employee shall be designated as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

All appropriate personnel shall receive training regarding district policies and procedures for gathering and handling sensitive student information.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

The district shall not collect or solicit social security numbers or the last four digits of social security numbers of students or their parents/guardians, unless otherwise required to do so by state or federal law. (Education Code 49076.7)

No information or documents regarding the citizenship or immigration status of students or their family members shall be collected, except as required by state or federal law or as required to administer a state or federally supported educational program. The Superintendent or designee shall not disclose student records to a person, agency, or organization for immigration enforcement purposes without parental consent, a court order, or a judicial subpoena. If a district employee receives such a request, he/she shall immediately report the request to the Superintendent. The Superintendent shall report the request to the Board in a timely manner that ensures the confidentiality and privacy of any potentially identifying information. (Education Code 234.7)

#### (cf. 5145.13 - Response to Immigration Enforcement)

The Superintendent or designee shall not compile a list, registry, or database based on students' national origin, ethnicity, or religious belief, practice, or affiliation, nor shall he/she disclose

# **STUDENT RECORDS** (continued)

student information to federal government authorities for the purpose of compiling such a list, registry, or database for purposes of immigration enforcement. Such information may only be compiled or exchanged with other local, state, or federal agencies if the information is aggregated and is not personally identifiable. (Government Code 8310.3)

# **Student Records from Social Media**

The Superintendent or designee may gather and maintain information from the social media of any district student, provided that the district first notifies students and parents/guardians about the proposed program, offers an opportunity for public comment at a regularly scheduled Board meeting, and gathers only information that directly pertains to school safety or student safety. (Education Code 49073.6)

(cf. 0450 - Comprehensive Safety Plan) (cf. 5131.2 - Bullying) (cf. 5145.6 - Parental Notifications) (cf. 9322 - Agenda/Meeting Materials) (cf. 9323 - Meeting Conduct)

# Contract for Digital Storage, Management, and Retrieval of Student Records

The Superintendent or designee may enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the requirements of Education Code 49073.1 and other applicable state and federal laws.

(cf. 3312 - Contracts)

### **STUDENT RECORDS** (continued)

Legal Reference:

EDUCATION CODE 234.7 Student protections relating to immigration and citizenship status 17604 Contracts 48201 Student records for transfer students who have been suspended/expelled 48853.5 Foster youth; placement, immunizations 48902 Notification of law enforcement of specified violations 48904-48904.3 Withholding grades, diplomas, or transcripts 48918 Rules governing expulsion procedures 48980 Parental notifications 48985 Notices in parent/guardian's primary language 49060-49079 Student records 49091.14 Parental review of curriculum 51747 Independent study 56041.5 Rights of students with disabilities 56050 Surrogate parents 56055 Foster parents 69432.9 Cal Grant program; notification of grade point average BUSINESS AND PROFESSIONS CODE 22580-22582 Digital privacy 22584-22585 Student Online Personal Information Protection Act 22586-22587 Early Learning Personal Information Protection Act CODE OF CIVIL PROCEDURE 1985.3 Subpoena duces tecum FAMILY CODE 3025 Access to records by noncustodial parents 6552 Caregiver's authorization affidavit **GOVERNMENT CODE** 6252-6260 Inspection of public records HEALTH AND SAFETY CODE 120440 Immunizations; disclosure of information PENAL CODE 245 Assault with deadly weapon WELFARE AND INSTITUTIONS CODE 681 Truancy petitions 701 Juvenile court law 16010 Health and education records of a minor CODE OF REGULATIONS, TITLE 5 430-438 Individual student records 16020-16027 Destruction of records of school districts

Legal Reference continued: (see next page)

#### **STUDENT RECORDS** (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 20 1232g Family Educational Rights and Privacy Act 1232h Protection of Pupil Rights Amendment UNITED STATES CODE, TITLE 26 152 Definition of dependent child UNITED STATES CODE, TITLE 42 11434a McKinney-Vento Homeless Assistance Act; definitions CODE OF FEDERAL REGULATIONS, TITLE 16 Part 312 Children's Online Privacy Protection Rule CODE OF FEDERAL REGULATIONS, TITLE 34 99.1-99.67 Family Educational Rights and Privacy 300.501 Opportunity to examine records for parents of student with disability

Management Resources:

CSBA PUBLICATIONS

Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist

California's K-12 Schools in Responding to Immigration Issues, April 2018

FEDERAL REGISTER

*Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy, December 9, 2008, Vol. 73, No. 237, pages 74806-74855* 

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Data in the Cloud: A Legal and Policy Guide for School Boards on Student Data Privacy in the Cloud Computing Era, April 2014

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

IDEA and FERPA Confidentiality Provisions, 2014

Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records, 2008 Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools, October 2007

WEB SITES

CSBA: http://www.csba.org

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

National School Boards Association: http://www.nsba.org

U.S. Department of Education, Family Policy Compliance, http://www.ed.gov/policy/gen/guid/fpco

POLICY approved: **Students** 

# **RELEASE OF DIRECTORY INFORMATION**

The Santa Cruz County Board of Education (Board) recognizes the importance of maintaining the confidentiality of directory information and therefore authorizes the release of such information only in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee may release student directory information to representatives of the news media or nonprofit organizations in accordance with Board policy and administrative regulation.

#### (cf. 1112 - Media Relations)

The Superintendent or designee may limit or deny the release of specific categories of directory information to any public or private nonprofit organization based on his/her determination of the best interests of district students. (Education Code 49073)

Colleges and prospective employers, including military recruiters, shall have access to directory information. Military recruiters shall have access to a student's name, address, and telephone number, unless the parent/guardian has specified that the information not be released in accordance with law and administrative regulation. (20 USC 7908; 10 USC 503; Education Code 49603)

# **RELEASE OF DIRECTORY INFORMATION** (continued)

Legal Reference:

EDUCATION CODE 234.7 Student protections relating to immigration and citizenship status 49061 Definitions 49063 Notification of parents of their rights 49073 Release of directory information 49073.5 Directory information; military representatives; telephone numbers 49603 Public high schools; military recruiting UNITED STATES CODE, TITLE 10 503 Military recruiter access to directory information UNITED STATES CODE, TITLE 20 1232g Family Educational Rights and Privacy Act 7908 Armed forces recruiter access to students and student recruiting information UNITED STATES CODE, TITLE 42 11434a McKinney-Vento Homeless Assistance Act; definitions CODE OF FEDERAL REGULATIONS, TITLE 34 99.1-99.67 Family Educational Rights and Privacy

Management Resources:

CALIFORNIA ATTORNEY GENERAL'S OFFICE PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018 U.S. DEPARTMENT OF EDUCATION PUBLICATONT

Access to High School Students and Information on Students by Military Recruiters, 2002 WEB SITES

California Attorney General's Office: http://oag.ca.gov

U.S. Department of Education, Family Policy Compliance Office:

http://www.ed.gov/policy/gen/guid/fpco/index.html

## **AWARDS FOR ACHIEVEMENT**

The Santa Cruz County Board of Education (Board) encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievement in academic, athletic, extracurricular, or community service activities.

(cf. 5121 - Grades/Evaluation of Student Achievement) (cf. 5127 - Graduation Ceremonies and Activities) (cf. 6142.4 - Service Learning/Community Service Classes)

### **District/School Awards**

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or cash gift.

The Superintendent or designee may develop criteria for the selection of student award recipients.

### **Golden State Seal Merit Diploma**

At graduation from high school, special recognition may be awarded to those students whose academic achievements in core curriculum areas have been outstanding.

The Superintendent or designee may identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

(cf. 6162.51 - State Academic Achievement Tests)

#### **Biliteracy Award**

The district may present the State Seal of Biliteracy to each graduating high school student who has attained a high level of proficiency in speaking, reading, and writing in one or more languages in addition to English. (Education Code 51460-51464)

(cf. 6142.2 - World/Foreign Language Instruction) (cf. 6174 - Education for English Learners)

In order to affirm the value of bilingualism and encourage students' enrollment in world language programs, the Superintendent or designee may present awards at appropriate grade levels to recognize the pursuit and/or attainment of grade-level proficiency in one or more languages in addition to English.

### BP 5126(b)

### AWARDS FOR ACHIEVEMENT (continued)

### Scholarship and Loan Fund

The Board may establish and maintain a scholarship and loan fund which may be used to provide interest-free loans for educational advancement, scholarship, or grants-in-aid to bona fide organizations, students, or graduates of district schools. (Education Code 35310, 35315)

(cf. 1260 - Educational Foundation) (cf. 3290 - Gifts, Grants and Bequests)

The district's scholarship and loan fund shall be administered by a district committee composed of Board members, the Superintendent, and such other community, staff, administrative, and/or student representatives as determined by the Board. (Education Code 35310)

The Board shall select its own representatives to the committee. Staff, community, and/or student representatives shall be selected by the Superintendent. Members of this committee shall serve two-year terms.

(cf. 1220 - Citizen Advisory Committees) (cf. 9140 - Board Representatives)

The committee may accept gifts, donations, and bequests made for the purposes of the fund and may prescribe conditions or restrictions on these gifts and bequests. If the donor imposes any conditions, the committee shall review the conditions and make a recommendation to the Board as to the compatibility of such conditions with the intent and purpose of the fund. The Board may prohibit the committee from accepting any donation under conditions it finds incompatible with the fund's intents and purposes. (Education Code 35313)

The Superintendent or designee shall report to the Board at least annually regarding the status and activity of the fund. (Education Code 35319)

### AWARDS FOR ACHIEVEMENT (continued)

Legal Reference:

EDUCATION CODE 220 Nondiscrimination 35160 Authority of governing boards 35310-35319 Scholarship and loan funds 44015 Awards to employees and students 51243-51245 Credit for private school foreign language instruction 51450-51455 Golden State Seal Merit Diploma 51460-51464 State Seal of Biliteracy 52164.1 Assessment of English language skills of English learners <u>CODE OF REGULATIONS, TITLE 5</u> 876 Golden State Seal Merit Diploma 1632 Credit for private school foreign language instruction 11510-11516 Assessment of English language development

Management Resources:

<u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov Californians Together: http://www.californianstogether.org

# BULLYING

The County Board of Education recognizes the harmful effects of bullying on student well-being, student learning, and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. No individual or group shall, through physical, written, verbal, visual, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any student or school personnel, or retaliate against them for filing a complaint or participating in the complaint resolution process.

(cf. 5145.3 - Nondiscrimination/Harassment) (cf. 5145.7 - Sexual Harassment)

# **Examples of Prohibited Conduct**

*Bullying* is an aggressive behavior that involves a real or perceived imbalance of power between individuals with the intent to cause emotional or physical harm. Bullying can be physical, verbal, or social/relational, involves repetition or potential repetition of a deliberate act, and includes, but is not limited to, any act described in Education Code 48900(r).

*Cyberbullying* includes the electronic creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images. Cyberbullying also includes breaking into another person's electronic account or assuming that person's online identity in order to damage that person's reputation.

Examples of the types of prohibited conduct that may constitute bullying include, but are not limited to:

- 1. Physical bullying that inflicts harm upon a person's body or possessions, such as hitting, kicking, pinching, spitting, tripping, pushing, taking or breaking someone's possessions, or making cruel or rude hand gestures
- 2. Verbal bullying that includes saying or writing hurtful things, such as teasing, namecalling, inappropriate sexual comments, taunting, or threats to cause harm
- 3. Social/relational bullying that harms a person's reputation or relationships, such as leaving a person out of an activity on purpose, influencing others not to be friends with someone, spreading rumors, or embarrassing someone in public
- 4. Sending demeaning or hateful text messages or emails, sending rumors by email or by posting on social networking sites, or posting embarrassing photos, videos, web site, or fake profiles.

# BP 5131.2(b)

# BULLYING (continued)

# Measures to Prevent Bullying

The County Board encourages the involvement of students, parents/guardians, staff, social services, mental health services, law enforcement, courts, and other agencies and community organizations in the development and implementation of effective strategies to promote safety in schools and the community.

The County Board incorporates any strategies developed by the County Superintendent of Schools implementing this policy, which may include, but are not limited to:

- 1. Ensuring that each school establishes clear rules for student conduct and implements strategies to promote a positive, collaborative school climate
- 2. Providing to students, through student handbooks and other age-appropriate means, information about county office of education (COE) and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying
- 3. Encouraging students to notify school staff when they are being bullied or when they suspect that another student is being bullied, and providing means by which students may report threats or incidents confidentially and anonymously
- 4. Conducting an assessment of bullying incidents at each school and, if necessary, increasing supervision and security in areas where bullying most often occurs, such as playgrounds, hallways, restrooms, and cafeterias
- 5. Annually notifying COE employees that, pursuant to Education Code 234.1, any school staff who witnesses an act of bullying against a student has a responsibility to immediately intervene to stop the incident when it is safe to do so
- 6. Providing professional development to all school staff who have regular interaction with students, including information regarding staff's obligation to prevent discrimination, harassment, intimidation, and bullying of students and annually making available the California Department of Education's online training module on the dynamics of bullying and cyberbullying pursuant to Education Code 32283.5
- 7. Providing students with instruction, as appropriate, that promotes social-emotional learning, effective communication skills, conflict resolution skills, and appropriate online behavior and teaches students about the negative impact of bullying, discrimination, intimidation, and harassment based on actual or perceived immigration status, religious beliefs and customs, or any other individual bias or prejudice

## BP 5131.2(c)

# BULLYING (continued)

Preventive strategies may be incorporated into schools' comprehensive safety plans and, to the extent possible, into the local control and accountability plan and other applicable COE and school plans.

### (cf. 0460 - Local Control and Accountability Plan)

# **Complaints**

Any complaint of bullying shall be submitted to and investigated by the individual(s), position(s), or unit(s) designated by the County Superintendent and, if determined to be discriminatory, shall be resolved in accordance with law and BP 1312.3 - Uniform Complaint Procedures. If, during the investigation, it is determined that a complaint is about nondiscriminatory bullying, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

### (cf. 1312.3 - Uniform Complaint Procedures)

# **Discipline/Corrective Actions**

A victim of bullying, witness, perpetrator, or other student affected by an act of bullying may be referred to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code 48900.9)

In addition, corrective actions for a student who commits an act of bullying may include behavioral intervention and education and, if the behavior is severe or pervasive, may include notification of the student's parent/guardian, suspension or expulsion, and/or referral to law enforcement.

# BULLYING (continued)

Legal Reference:

EDUCATION CODE 200-262.4 Prohibition of discrimination 32282 Comprehensive safety plan 32283.5 Bullying; online training 48900-48925 Suspension or expulsion 48985 Translation of notices 52066-52069 Local control and accountability plan PENAL CODE 422.55 Definition of hate crime 647 Use of camera or other instrument to invade person's privacy; misdemeanor 647.7 Use of camera or other instrument to invade person's privacy; punishment 653.2 Electronic communication devices, threats to safety CODE OF REGULATIONS, TITLE 5 4600-4670 Uniform complaint procedures UNITED STATES CODE, TITLE 47 254 Universal service discounts (e-rate) CODE OF FEDERAL REGULATIONS, TITLE 28 35.107 Nondiscrimination on basis of disability; complaints CODE OF FEDERAL REGULATIONS, TITLE 34 104.7 Designation of responsible employee for Section 504 106.8 Designation of responsible employee for Title IX 110.25 Notification of nondiscrimination on the basis of age COURT DECISIONS Wynar v. Douglas County School District, (2013) 728 F.3d 1062 J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094 Lavine v. Blaine School District, (2002) 279 F.3d 719

Management Resources: (see next page)

# BULLYING (continued)

Management Resources: CSBA PUBLICATIONS Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities & Facilities, Legal Guidance, March 2014 Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014 Addressing the Conditions of Children: Focus on Bullying, Governance Brief, December 2012 Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011 Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010 Building Healthy Communities: A School Leaders Guide to Collaboration and Community Engagement, 2009 CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS Bullying Module California's Social and Emotional Learning: Guiding Principles, 2018 Social and Emotional Learning in California: A Guide to Resources, 2018 Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008 Bullying at School, 2003 U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014 Guidance to America's Schools: Bullying of Students with Disabilities, October 2014 Dear Colleague Letter: Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, October 26, 2010 Dear Colleague Letter: Harassment and Bullying, October 2010 WEB SITES CSBA: http://www.csba.org California Department of Education, Safe Schools Office: http://www.cde.ca.gov/ls/ss California Office of the Attornev General: http://oag.ca.gov Center on Great Teachers and Leaders: https://gtlcenter.org *Collaborative for Academic Social and Emotional Learning: https://casel.org* Common Sense Media: http://www.commonsensemedia.org National School Safety Center: http://www.schoolsafety.us Partnership for Children and Youth: https://www.partnerforchildren.org U.S. Department of Education: http://www.ed.gov

# ALCOHOL AND OTHER DRUGS

The Santa Cruz County Board of Education (Board) believes that the use of alcohol or other drugs adversely affects a student's ability to achieve academic success, is physically and emotionally harmful, and has serious social and legal consequences. The Superintendent or designee shall develop comprehensive programs and activities to foster safe, healthy, and drug-free environments that support academic achievement.

(cf. 0450 - Comprehensive Safety Plan) (cf. 4020 - Drug and Alcohol-Free Workplace) (cf. 5137 - Positive School Climate)

The district's alcohol and drug prevention and intervention programs shall be coordinated with other school and community-based services and programs and shall promote the involvement of parents/guardians. The Superintendent or designee may collaborate with the county office of education, community-based organizations, health providers, law enforcement agencies, local child welfare agencies, postsecondary institutions, businesses, and other public and private entities in program planning, implementation, and evaluation.

(cf. 1220 - Citizen Advisory Committees) (cf. 1400 - Relations Between Other Governmental Agencies and the Schools) (cf. 6020 - Parent Involvement)

Prevention and intervention programs and activities may include, but are not limited to: (20 USC 7118)

1. Evidence-based drug and violence prevention activities and programs that educate students against the use of alcohol, tobacco, cannabis, smokeless tobacco products, and electronic cigarettes

(cf. 5131.62 - Tobacco)

2. Professional development and training for school staff, specialized instructional support personnel, and interested community members on drug prevention, education, early identification, intervention mentoring, recovery support services, and, where appropriate, rehabilitation referral

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

# ALCOHOL AND OTHER DRUGS (continued)

3. School-based mental health services, including early identification of drug use and referrals to counseling services, and/or partnerships with public or private health care entities that have qualified mental and behavioral health professionals

### (cf. 5141.6 - School Health Services)

4. Programs and activities that provide mentoring and school counseling to all students, including students who are at risk of drug use and abuse

## Instruction

The district shall provide science-based preventative instruction which has been proven effective in helping students avoid the use of alcohol and other drugs.

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction) (cf. 6142.8 - Comprehensive Health Education) (cf. 6143 - Courses of Study)

All instruction and related materials shall consistently state that unlawful use of alcohol or other drugs is prohibited. Instruction shall not include any message on responsible use of drugs or alcohol when such use is illegal. (Health and Safety Code 11999.2)

The district shall offer staff development activities for staff who implement the comprehensive drug and alcohol prevention and intervention program.

## Intervention, Referral, and Student Assistance Programs

The Superintendent or designee shall inform school staff, students, and parents/guardians about early warning signs which may indicate alcohol and other drug use and about appropriate agencies offering intervention programs, counseling, referral, and other student assistance programs.

The Board strongly encourages any student who is using alcohol or drugs to discuss the matter with his/her parent/guardian or with any staff member. Students who disclose their use of alcohol or other drugs when seeking help from an intervention or recovery program shall not be disciplined for such use.

(cf. 5141.52 - Suicide Prevention)

## **Enforcement/Discipline**

Students shall not possess, use, or sell alcohol or other drugs and related paraphernalia on school grounds or at school-sponsored activities.

# ALCOHOL AND OTHER DRUGS (continued)

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3513.4 - Drug and Alcohol Free Schools)
(cf. 5131 - Conduct)
(cf. 5131.61 - Drug Testing)
(cf. 5131.63 - Steroids)
(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)
(cf. 5145.12 - Search and Seizure)

The Superintendent or designee shall clearly communicate to all students, staff, and parents/guardians the district's policies, regulations, and school rules related to the use of alcohol and other drugs.

Any student found by the Board to be selling a controlled substance listed in Health and Safety Code 11053-11058 shall be expelled in accordance with BP/AR 5144.1 - Suspension and Expulsion/Due Process. A student found to have committed another drug or alcohol offense, including possession or intoxication, shall be referred to appropriate behavioral interventions or student assistance programs, and may be subject to discipline on a case-by-case basis.

(cf. 5144 - Discipline) (cf. 5144.1 - Suspension and Expulsion/Due Process) (cf. 6145 - Extracurricular and Cocurricular Activities)

#### **Program Evaluation**

The Board and Superintendent shall agree upon performance measures that will be used to monitor and determine the effectiveness of district programs in reducing drug and alcohol use. The Superintendent or designee shall periodically report to the Board on the effectiveness of district activities in achieving identified objectives and outcomes. (20 USC 7116)

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

- 44049 Known or suspected alcohol or drug abuse by student
- 44645 In-service training anabolic steroids
- 48900 Suspension or expulsion (grounds)
- 48900.5 Suspension, limitation on imposition; exception
- 48901 Smoking or use of tobacco prohibited
- 48901.5 Prohibition of electronic signaling devices
- 48902 Notification of law enforcement authorities; civil or criminal immunity
- 48909 Narcotics or other hallucinogenic drugs
- 48915 Expulsion; particular circumstances
- 49602 Confidentiality of pupil information
- 51202 Instruction in personal and public health and safety

Legal Reference continued: (see next page)

# ALCOHOL AND OTHER DRUGS (continued)

Legal Reference: (continued) EDUCATION CODE (continued) 51203 Instruction on alcohol, narcotics and restricted dangerous drugs 51210 Areas of study 51220 Areas of study, grades 7 to 12 51260-51269 Drug education 60041 Instructional materials 60110-60115 Instructional materials on alcohol and drug education BUSINESS AND PROFESSIONS CODE 25608 Alcohol on school property; use in connection with instruction HEALTH AND SAFETY CODE 11032 Narcotics, restricted dangerous drugs and marijuana 11053-11058 Standards and schedules 11353.6 Juvenile Drug Trafficking and Schoolyard Act 11357 Unauthorized possession of marijuana; possession in school or on school grounds 11361.5 Destruction of arrest or conviction records 11372.7 Drug program fund; uses 11802 Joint school-community alcohol abuse primary education and prevention program 11999-11999.3 Alcohol and drug program funding; no unlawful use 124175-124200 Adolescent family life program PENAL CODE 13860-13864 Suppression of drug abuse in schools VEHICLE CODE 13202.5 Drug and alcohol related offenses by person under age of 21, but aged 13 or over; WELFARE AND INSTITUTIONS CODE 828 Disclosure of information re minors 828.1 Disclosure of criminal records; protection of vulnerable staff & students UNITED STATES CODE, TITLE 20 5812 National education goals 7101-7122 Student Support and Academic Enrichment Grants

Management Resources:

<u>WEB SITES</u>

California Department of Education, Alcohol, Tobacco and Other Drug Prevention: http://www.cde.ca.gov/ls/he/at

California Healthy Kids: http://www.californiahealthykids.org

Office of Safe and Healthy Students: https://www2.ed.gov/about/offices/list/oese/oshs

# TOBACCO

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

#### (cf. 5141.23 - Asthma Management)

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

# **Prohibition Against Tobacco Use**

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

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 5131 - Conduct)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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

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

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

### BP 5131.62(b)

## **TOBACCO** (continued)

3. Any component, part, or accessory of a tobacco product, whether or not sold separately

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

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

## **Prevention Instruction**

The district shall provide developmentally appropriate tobacco-use prevention instruction for students at selected grade levels from K-12 pursuant to Education Code 51202. Such instruction shall be aligned with state content standards and the state curriculum framework for health education and with any requirements of state and/or federal grant programs in which the district participates.

(cf. 6142.8 - Comprehensive Health Education) (cf. 6143 - Courses of Study)

### **Intervention/Cessation Services**

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

(cf. 5141.6 - School Health Services) (cf. 5146 - Married/Pregnant/Parenting Students) (cf. 6164.2 - Guidance/Counseling Services)

## **Program Planning**

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

The Superintendent or designee shall coordinate with the local health department and county office of education in program planning and implementation. He/she may establish an advisory council including students, parents/guardians, district staff, representatives of the local health department and community organizations, law enforcement professionals, and/or others with demonstrated expertise in tobacco prevention and cessation.

(cf. 1220 - Citizen Advisory Councils) (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

# TOBACCO (continued)

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

(cf. 5030 - Student Wellness) (cf. 5131.6 - Alcohol and Other Drugs) (cf. 5131.63 - Steroids)

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

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

(cf. 1325 - Advertising and Promotion) (cf. 3290 - Gifts, Grants and Bequests) (cf. 6161.1 - Selection and Evaluation of Instructional Materials)

## **Program Evaluation**

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

(cf. 0500 - Accountability) (cf. 5022 - Student and Family Privacy Rights) (cf. 6162.8 - Research)

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

# TOBACCO (continued)

Legal Reference:

EDUCATION CODE 8900 Suspension or expulsion (grounds) 48900.5 Suspension, limitation on imposition; exception 48901 Smoking or use of tobacco prohibited 51202 Instruction in personal and public health and safety 60041 Instructional materials, portrayal of effects of tobacco use BUSINESS AND PROFESSIONS CODE 22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions HEALTH AND SAFETY CODE 104350-104495 Tobacco-use prevention education 104559 Tobacco use prohibition 119405 Unlawful to sell or furnish electronic cigarettes to minors PENAL CODE 308 Minimum age for tobacco possession CODE OF REGULATIONS, TITLE 17 6800 Definition, health assessment 6844-6847 Child Health and Disability Prevention program; health assessments UNITED STATES CODE, TITLE 20 7111-7122 Student Support and Academic Enrichment Grants CODE OF FEDERAL REGULATIONS, TITLE 21 1140.1-1140.34 Unlawful sale of cigarettes and smokeless tobacco to minors ATTORNEY GENERAL OPINIONS 88 Ops.Cal.Atty.Gen. 8 (2005)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS TUPE Acceptance of Funds Guidance Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008 Health Framework for California Public Schools: Kindergarten Through Grade Twelve, 2003 Getting Results: Part II California Action Guide to Tobacco Use Prevention Education, 2000 WEST ED PUBLICATIONS Guidebook for the California Healthy Kids Survey

WEB SITES

CSBA: http://www.csba.org

California Department of Education, Tobacco-Use Prevention Education:

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

California Department of Public Health, Tobacco Control: http://www.cdph.ca.gov/programs/tobacco California Healthy Kids Resource Center: http://www.californiahealthykids.org

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

Centers for Disease Control and Prevention, Smoking and Tobacco Use: http://www.cdc.gov/tobacco U.S. Surgeon General: http://www.surgeongeneral.gov

### WEAPONS AND DANGEROUS INSTRUMENTS

The Santa Cruz County Board of Education (Board) recognizes that students and staff have the right to a safe and secure campus free from physical and psychological harm and desires to protect them from the dangers presented by firearms and other weapons.

(cf. 0450 - Comprehensive Safety Plan) (cf. 3515.3 - District Police/Security Department) (cf. 5116.1 - Intradistrict Open Enrollment) (cf. 5131 - Conduct) (cf. 5138 - Conflict Resolution/Peer Mediation)

#### **Possession of Weapons**

The Board prohibits any student from possessing weapons, imitation firearms, or other dangerous instruments, as defined in law and administrative regulation, in school buildings, on school grounds or buses, at school-related or school-sponsored activities away from school, or while going to or coming from school.

Under the power granted to the Board to protect the safety of students, staff, and others on district property and to maintain order and discipline in the schools, any school employee is authorized to confiscate any prohibited weapon, imitation firearm, or dangerous instrument from any student on school grounds.

#### (cf. 4158/4258/4358 - Employee Security)

Unless he/she has obtained prior written permission as specified below, a student possessing or threatening others with any weapon, dangerous instrument, or imitation firearm shall be subject to suspension and/or expulsion in accordance with law, Board policy, and administrative regulations.

(cf. 5144 - Discipline) (cf. 5144.1 - Suspension and Expulsion/Due Process) (cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities))

The principal or designee shall notify law enforcement authorities when any student possesses a firearm, explosive, or other prohibited weapon or dangerous instrument without permission, sells or furnishes a firearm, or commits any act of assault with a firearm or other weapon. (Education Code 48902; Penal Code 245, 626.9, 626.10; 20 USC 7961)

(cf. 3515.2 - Disruptions)

#### Advance Permission for Possession of a Weapon for Educational Purposes

# WEAPONS AND DANGEROUS INSTRUMENTS (continued)

The parent/guardian of a student who desires to possess a firearm, imitation firearm, or other prohibited weapon on school grounds for an educational purpose shall, at least five school days in advance of the planned possession, submit a written request to the principal which explains the planned use of the weapon and the duration. The student shall also submit a written explanation from the staff person responsible for the school-sponsored activity or class.

The principal may grant permission for such possession when he/she determines that it is necessary for a school-sponsored activity or class or as part of the educational program. Factors that shall be considered include, but are not limited to, the planned use of the weapon, the duration and location of the planned use, whether an audience is expected, and any perceived adverse effects to the safety and well-being of students or staff. If the principal grants such permission, he/she shall provide the student and staff person with a written explanation regarding any limitations and the permissible duration of the student's possession.

When the principal or designee grants permission, he/she shall take all necessary precautions to ensure the safety of all persons on school grounds, including, but not limited to, inspecting a firearm to verify that no live ammunition is present. Any weapon allowed shall be stored in a locked vehicle or in an appropriate, locked container before and after its authorized use.

A student granted permission to possess a weapon may be suspended and/or expelled if he/she possesses or uses the weapon inappropriately.

## **Possession of Pepper Spray**

To prevent potential misuse that may harm students or staff, students are prohibited from carrying tear gas or tear gas weapons such as pepper spray on campus or at school activities.

## **Reporting of Dangerous Objects**

The Board encourages students to promptly report the presence of weapons, injurious objects, or other suspicious activity to school authorities. The identity of a student who reports such activity shall remain confidential to the extent permitted by law.

## (cf. 5125 - Student Records)

The Superintendent or designee shall develop strategies designed to facilitate student reporting of the presence of injurious objects on school grounds, such as tip hotlines, electronic transmissions, or other methods that preserve the student's anonymity. Incident reports and records shall not identify the student who reported the possession. The Superintendent or designee also shall inform staff, students, and parents/guardians that students who report the presence of injurious objects on school campuses are to be protected and their identity shielded.
#### BP 5131.7(c)

#### WEAPONS AND DANGEROUS INSTRUMENTS (continued)

Legal Reference:

EDUCATION CODE 35291 Governing board to prescribe rules for discipline of the schools 48900 Grounds for suspension/expulsion 48902 Notification of law enforcement authorities 48915 Required recommendation for expulsions 48916 Readmission 49330-49335 Injurious objects PENAL CODE 245 Assault with deadly weapon 417.4 Imitation firearm; drawing or exhibiting 626.9 Gun-Free School Zone Act of 1995 626.10 Dirks, daggers, knives, razor or stun gun; bringing or possessing in school 653k Switchblade knife 16100-17350 Definitions 22810-23025 Tear gas weapon (pepper spray) 25200-25225 Firearms, access to children 30310 Prohibition against ammunition on school grounds UNITED STATES CODE, TITLE 20 6301-7941 No Child Left Behind Act, especially: 7961 Gun-Free Schools Act

#### Management Resources:

<u>CSBA PUBLICATIONS</u> <u>Safe Schools: Strategies for Governing Boards to Ensure Student Success</u>, Third Edition, October 2011 <u>CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS</u> 0401.01 Protecting Student Identification in Reporting Injurious Objects <u>U.S. DEPARTMENT OF EDUCATION PUBLICATIONS</u> <u>Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act</u>, January 2004 <u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education, Safe Schools: http://www.cde.ca.gov/ls/ss National Alliance for Safe Schools: http://www.safeschools.org National School Safety Center: http://www.schoolsafety.us U.S. Department of Education, Office of Safe and Drug Free Schools: http://www.ed.gov/about/offices/list/osdfs Policy adopted: **Students** 

## **DRESS AND GROOMING**

Note: The following policy may be revised to reflect district practice. Pursuant to Education Code 35183, districts that adopt a school uniform policy are **mandated** to include specified provisions; see section on "Uniforms" below.

The Santa Cruz County Board of Education (Board) believes that appropriate dress and grooming contribute to a productive learning environment. The Board expects students to wear clothing that is suitable for the school activities in which they participate. Students shall not wear clothing that presents a health or safety hazard or causes a substantial disruption to the educational program.

#### (cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

District and school rules pertaining to student attire shall be included in student handbooks, may be posted in school offices and classrooms, and may be periodically reviewed with all students as necessary.

Students shall not be prohibited from dressing in a manner consistent with their gender identity or gender expression or with their religious or cultural observance.

(cf. 5145.3 - Nondiscrimination/Harassment) (cf. 5145.7 - Sexual Harassment)

Note: Education Code 212.1, as amended by SB 188 (Ch. 58, Statutes of 2019), defines "race," for purposes of prohibiting discrimination, as including traits historically associated with race, such as hair texture and protective hairstyles.

In addition, the dress code shall not discriminate against students based on hair texture and protective hairstyles, including, but not limited to, braids, locks, and twists. (Education Code 212.1)

Note: While students do not lose their constitutional rights by virtue of entering school grounds, numerous court decisions have found that the First Amendment rights of public school students are not necessarily the same as the rights of adults in other settings and must be viewed in light of the special circumstances of the school environment. In Hazelwood School District v. Kuhlmeier, the U.S. Supreme Court ruled that a school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." For instance, districts may prohibit clothing that is vulgar or causes a substantial disruption to the educational program. Districts may also prohibit clothing that promotes drug use. While districts can regulate clothing that causes a "substantial disruption," districts cannot regulate student clothing simply because the district does not approve of the message displayed. The district's ability to prohibit "hate speech," including clothing with derogatory or demeaning messages, is unclear. The 9th Circuit Court in Harper v. Poway Unified School District ruled that a school could prohibit a student from wearing a t-shirt with a religious viewpoint against homosexuality, citing a provision in Tinker v. Des Moines which held that schools may prohibit speech that "intrudes upon the rights of other students" and interferes with their learning. However, because the student had graduated, the U.S. Supreme Court vacated the Harper decision on appeal and thus its analysis cannot be relied upon. It is recommended that the district consult legal counsel in the development of this policy and whenever it has questions about the appropriate enforcement of this policy based on student expression.

## DRESS AND GROOMING (continued)

The principal or designee is authorized to enforce this policy and shall inform any student who does not reasonably conform to the dress code. The dress code shall not be enforced in a manner that discriminates against a particular viewpoint or results in a disproportionate application of the dress code based on students' gender, sexual orientation, race, ethnicity, household income, or body type or size.

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 0415 - Equity) (cf. 5145.2 - Freedom of Speech/Expression)

School administrators, teachers, and other staff shall be notified of appropriate and equitable enforcement of the dress code.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

When practical, students shall not be directed to correct a dress code violation during instructional time or in front of other students.

Repeated violations or refusal to comply with the district's dress code may result in disciplinary action.

(cf. 5144 - Discipline)

## **Gang-Related Apparel**

Note: Education Code 35183 authorizes the Governing Board to approve a site-initiated plan that prohibits the school's students from wearing gang-related apparel. The definition of "gang-related apparel" must be limited to apparel that reasonably could be determined to threaten the health and safety of the school environment, and the Board's approval must be based on a determination the policy is necessary for the health and safety of the school environment. In <u>Marvin H. Jeglin et al v. San Jacinto Unified School District et al</u>, a federal district court held that in order to justify a gang-related dress code, there must be evidence of a gang presence at a school and actual or threatened disruption or material interference with school activity. Education Code 32282 specifies that for the purpose of establishing a schoolwide dress code, gang-related apparel shall not be considered a protected form of speech pursuant to Education Code 48950.

District policy should not include a districtwide prohibition against wearing gang-related apparel. Pursuant to Education Code 35183, such a dress code must be initiated at the school-site level and apply only to the school where it is initiated.

The principal, staff, and parents/guardians at a school may establish a reasonable dress code that prohibits students from wearing gang-related apparel when there is evidence of a gang presence that disrupts or threatens to disrupt the school's activities. Such a proposed dress

#### BP 5132(c)

## **DRESS AND GROOMING** (continued)

code shall be presented to the Board, which shall approve the plan upon determining that it is necessary to protect the health and safety of the school environment. The dress code policy may be included in the school's comprehensive safety plan. (Education Code 35183)

(cf. 0450 - Comprehensive Safety Plan) (cf. 5136 - Gangs)

When determining specific items of clothing that may be defined as gang apparel, the school shall ensure that the determination is free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics.

## Uniforms

Note: In Jacobs v. Clark County School District, the 9th Circuit Court of Appeals held that a district policy requiring students to wear school uniforms did not violate students' First Amendment right to freedom of speech or expression, as such policies are viewpoint-neutral and content-neutral and not intended to suppress the expression of particular ideas.

Pursuant to Education Code 35183, the Board may approve a school-initiated plan that requires a school's students to wear uniforms when the Board determines that the policy is necessary for the health and safety of the school environment.

The Board may approve a school-initiated dress code requiring students at the school to wear a school uniform whenever the Board determines that such a dress code will promote student achievement, a positive school climate, and/or student safety.

Note: If the Board adopts a dress code policy requiring uniforms for any school, Education Code 35183 requires that the Board provide a method whereby parents/guardians may choose to have their children exempted from the adopted school uniform policy. Education Code 35183 **mandates** that the Board policy include a statement that such students shall not be penalized academically, otherwise discriminated against, or denied attendance to school.

The Superintendent or designee shall establish procedures whereby parents/guardians may choose to have their children exempted from the school uniform policy. Students shall not be penalized academically, otherwise discriminated against, or denied attendance to school if their parents/guardians so decide. (Education Code 35183)

The Superintendent or designee shall ensure that resources are identified to assist economically disadvantaged students in obtaining uniforms. (Education Code 35183)

Legal Reference: (see next page)

### BP 5132(d)

### DRESS AND GROOMING (continued)

Legal Reference:

EDUCATION CODE 212.1 Nondiscrimination based on race or ethnicity 220 Nondiscrimination 32281 School safety plans 35183 School dress codes; uniforms 35183.5 Sun-protective clothing 48907 Student exercise of free expression 49066 Grades; effect of physical education class apparel COURT DECISIONS Jacobs v. Clark County School District (2008) 26 F. 3d 419 Harper v. Poway Unified School District (2006) 445 App. 3d 166 Marvin H. Jeglin et al v. San Jacinto Unified School District et al (C.D. Cal. 1993) 827 F.Supp. 1459 Arcadia Unified School District v. California Department of Education (1992) 2 Cal. 4th 251 Hazelwood School District v. Kuhlmeier (1988) 108 S. Ct. 562 Hartzell v. Connell (1984) 35 Cal. 3d 899 Tinker v. Des Moines Independent Community School District (1969) 393 U.S. 503

Policy approved: **Students** 

## HEALTH CARE AND EMERGENCIES

The Santa Cruz County Board of Education (Board) recognizes the importance of taking appropriate action whenever an emergency threatens the safety, health, or welfare of a student at school or during school-sponsored activities.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5142 - Safety)

The Superintendent or designee shall develop procedures to ensure that first aid and/or medical attention is provided as quickly as possible when accidents and injuries to students occur and that parents/guardians are notified as appropriate.

(cf. 3530 - Risk Management/Insurance) (cf. 5143 - Insurance) (cf. 6145.2 - Athletic Competition)

The Superintendent or designee shall ask parents/guardians to provide emergency contact information in order to facilitate communication in the event of an accident or illness.

District staff shall appropriately report and document student accidents.

## **Automated External Defibrillators**

The Board authorizes the Superintendent or designee to place automated external defibrillators (AEDs) at designated school sites for use by school employees in an emergency.

The Superintendent or designee shall develop guidelines for employees regarding these devices and shall ensure that employees receive information that describes sudden cardiac arrest, the school's emergency response plan, and the proper use of an AED. The guidelines shall also specify the placement, security, and maintenance of the AED.

The authorization of AEDs in district schools shall not be deemed to create a guarantee that an AED will be present or will be used in the case of an emergency, or that a trained employee will be present and/or able to use an AED in an emergency, or that the AED will operate properly.

Legal Reference: (see next page)

## HEALTH CARE AND EMERGENCIES (continued)

Legal Reference:

EDUCATION CODE 32040-32044 First aid equipment 49300-49307 School safety patrols 49407 Liability for treatment 49408 Emergency information 49409 Athletic events; physicians and surgeons; emergency medical care; immunity 49417 Automated external defibrillators 49470 Medical and hospital services for athletic program 49471 Medical and hospital services not provided or available 49472 Medical and hospital services for pupils 49474 Ambulance services 51202 Instruction in personal and public health and safety CIVIL CODE 1714.21 Defibrillators; CPR; immunity from civil liability FAMILY CODE 6550-6552 Caregivers HEALTH AND SAFETY CODE 1797.196 Automated external defibrillators, immunity from civil liability 1797.200 Emergency medical services agency 1799.102 Personal liability immunity CODE OF REGULATIONS, TITLE 8 5193 California Bloodborne Pathogens Standard CODE OF REGULATIONS, TITLE 22 100031-100042 Automated external defibrillators

Management Resources:

<u>WEB SITES</u> American Heart Association: http://www.americanheart.org American Red Cross: http://www.redcross.org California Department of Health Care Services: http://www.dhcs.ca.gov Policy approved: **Students** 

### **HEALTH EXAMINATIONS**

The Santa Cruz County Board of Education (Board) recognizes that periodic health examinations of students may lead to early detection and treatment of conditions that impact learning. Health examinations also may help in determining whether special adaptations of the school program are necessary.

The Superintendent or designee shall verify that students have complied with legal requirements for a comprehensive health screening, an oral health assessment, and immunizations at school entry. In addition, the district shall administer tests for vision, hearing, and scoliosis as required by law.

(cf. 5141.26 - Tuberculosis Testing) (cf. 5141.31 - Immunizations) (cf. 5141.32 - Health Screening for School Entry) (cf. 5141.6 - School Health Services)

The Superintendent or designee shall ensure that staff employed to examine students exercise proper care of each student and that examination results are kept confidential. Records related to these examinations shall be maintained and released only in accordance with law.

(cf. 5125 - Student Records)

Legal Reference: (see next page)

#### BP 5141.3(b)

#### **HEALTH EXAMINATIONS** (continued)

Legal Reference:

EDUCATION CODE 44871-44879 Employment qualifications 48980 Parental notifications 49400-49414.5 Student health, general powers of school boards 49422 Supervision of health and physical development 49450-49458 Physical examinations (of students) 49460-49466 Development of standardized health assessments HEALTH AND SAFETY CODE 1685-1686 Audiometrists 120325-120380 Immunization against communicable diseases 121475-121520 Tuberculosis tests for students 124025-124110 Child Health and Disability Prevention Program CODE OF REGULATIONS, TITLE 5 590-596 Vision screening 3027 Hearing and vision screening for special education 3028 Audiological screening CODE OF REGULATIONS, TITLE 17 2950-2951 Hearing tests UNITED STATES CODE, TITLE 20 1232g Family Educational Rights and Privacy Act 1232h Protection of student rights

#### Management Resources:

CSBA PUBLICATIONS

Expanding Access to School Health Services: Policy Considerations for Governing Boards, November 2008

<u>Promoting Oral Health for California's Students: New Roles, New Opportunities for Schools, November</u> 2008

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Standards for Scoliosis Screening in California Public Schools, 2007

A Guide for Vision Testing in California Public Schools, 2005

CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES PUBLICATIONS

Manual for the School Audiometrist

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Joint Guidance on the Application of FERPA and HIPAA to Student Health Records, November 2008 WEB SITES* 

CSBA: http://www.csba.org

California Department of Education, Health Services: School Nursing: http://www.cde.ca.gov/ls/he/hn California Department of Education, Type 2 Diabetes Information:

http://www.cde.ca.gov/ls/he/hn/type2diabetes.asp

California Department of Health Care Services: http://www.dhcs.ca.gov

U.S. Department of Education: http://www.ed.gov

Policy adopted: **Students** 

# SUSPENSION AND EXPULSION/DUE PROCESS

The Santa Cruz County Board of Education (Board) desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct) (cf. 5131.1 - Bus Conduct) (cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

BP 5144.1(b)

# SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

- 1. While on school grounds
- 2. While going to or coming from school
- 3. During the lunch period, whether on or off the school campus

## (cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

#### **Appropriate Use of Suspension Authority**

Note: Education Code 48900.5 requires districts to use other means of correction instead of suspension or expulsion except when a student commits certain enumerated offenses. The following section reflects legislative intent regarding appropriate use of suspension as a means of disciplining students and may be modified to reflect district practice.

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6164.5 - Student Success Teams)

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

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

Note: As amended by SB 419 (Ch. 279, Statutes of 2019), Education Code 48900(k) prohibits a district from suspending students in grades K-8 for disruption or willful defiance beginning July 1, 2020.

A district may, but is not required to, suspend students in grades 9-12 for disruption or willful defiance. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is for use by any district that chooses to suspend students in grades 9-12 for disruption and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and willful defiance as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the section titled "Additional Grounds for Suspension and Expulsion: Grades 9-12" in the accompanying administrative regulation.

Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section "Suspension from Class by a Teacher" in the accompanying administrative regulation.

No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Note: The following **optional** paragraph reflects the Legislature's intent, expressed in Education Code 48900, concerning disciplinary actions against truant, tardy, or absent students. Since these are not enumerated offenses, a district does not have the authority to suspend or expel students for committing any of these acts.

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses) (cf. 5113.1 - Chronic Absence and Truancy)

### Authority to Expel

A student may be expelled <u>only</u> by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

- 2. Selling or otherwise furnishing a firearm
- 3. Brandishing a knife at another person
- 4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
- Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
- 6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

- 1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
- 2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

Note: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an order for expulsion as long as a student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in <u>80 Ops.Cal.Atty.Gen</u>. 85 (1997) that the enforcement of an expulsion order may be suspended even in those cases where the student has committed an offense for which expulsion is required by law. Legal counsel should be consulted as appropriate.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

## **Due Process**

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

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

## Maintenance and Monitoring of Outcome Data

Note: Education Code 48900.8 and 48916.1 require the district to maintain data related to suspensions and expulsions as provided below. Pursuant to Education Code 48916.1, the Superintendent of Public Instruction may require submission of such data as part of the Federal Program Monitoring process. In addition, 20 USC 7961 requires districts to submit to CDE a description of the circumstances surrounding any expulsions based on bringing or possessing a firearm on campus, including the name of the school, the number of students expelled, and the type of firearms involved.

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that

involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

Note: Pursuant to Education Code 52060, districts are required to address school climate in the local control and accountability plan, as measured by student suspension and expulsion rates and other local measures for each school and each numerically significant student subgroup. As defined in Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

#### Legal Reference:

EDUCATION CODE 212.5 Sexual harassment 233 Hate violence 1981-1981.5 Enrollment of students in community school 8239.1 Prohibition against expulsion of preschool student 17292.5 Program for expelled students 32261 Interagency School Safety Demonstration Act of 1985 35145 Open board meetings 35146 Closed sessions (regarding suspensions) 35291 Rules (for government and discipline of schools) 35291.5 Rules and procedures on school discipline 48645.5 Readmission; contact with juvenile justice system 48660-48666 Community day schools 48853.5 Foster youth 48900-48927 Suspension and expulsion 48950 Speech and other communication 48980 Parental notifications 49073-49079 Privacy of student records 52052 Numerically significant student subgroups 52060-52077 Local control and accountability plan 64000-64001 Consolidated application

Legal Reference continued: (see next page)

Legal Reference: (continued) CIVIL CODE 47 Privileged communication 48.8 Defamation liability CODE OF CIVIL PROCEDURE 1985-1997 Subpoenas; means of production **GOVERNMENT CODE** 11455.20 Contempt 54950-54963 Ralph M. Brown Act HEALTH AND SAFETY CODE 11014.5 Drug paraphernalia 11053-11058 Standards and schedules LABOR CODE 230.7 Employee time off to appear in school on behalf of a child PENAL CODE 31 Principal of a crime, defined 240 Assault defined 241.2 Assault fines 242 Battery defined 243.2 Battery on school property 243.4 Sexual battery 245 Assault with deadly weapon 245.6 Hazing 261 Rape defined 266c Unlawful sexual intercourse 286 Sodomy defined 288 Lewd or lascivious acts with child under age 14 288a Oral copulation 289 Penetration of genital or anal openings 417.27 Laser pointers 422.55 Hate crime defined 422.6 Interference with exercise of civil rights 422.7 Aggravating factors for punishment 422.75 Enhanced penalties for hate crimes 626.2 Entry upon campus after written notice of suspension or dismissal without permission 626.9 Gun-Free School Zone Act of 1995 626.10 Dirks, daggers, knives, razors, or stun guns 868.5 Supporting person; attendance during testimony of witness Legal Reference continued: (see next page)

Legal Reference: (continued) <u>WELFARE AND INSTITUTIONS CODE</u> 729.6 Counseling <u>UNITED STATES CODE, TITLE 18</u> 921 Definitions, firearm <u>UNITED STATES CODE, TITLE 20</u>

1415(K) Placement in alternative educational setting 7961 Gun-free schools UNITED STATES CODE, TITLE 42 11432-11435 Education of homeless children and youths COURT DECISIONS T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267 Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421 Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321 Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118 Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807 John A. v. San Bernardino School District (1982) 33 Cal. 3d 301 ATTORNEY GENERAL OPINIONS 84 Ops.Cal.Atty.Gen. 146 (2001) 80 Ops.Cal.Atty.Gen. 348 (1997) 80 Ops.Cal.Atty.Gen. 91 (1997) 80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

<u>U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS</u> <u>Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline</u>, January 2014 <u>WEB SITES</u> CSBA: http://www.csba.org California Attorney General's Office: http://www.oag.ca.gov 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/docs/crdc-2012-data-summary.pdf U.S. Department of Education, Office of Safe and Healthy Students: http://www2.ed.gov/about/offices/list/oese/oshs Policy approved: **Students** 

# STUDENT EXPULSION APPEALS

When expelled by the governing board of a school district that is within the jurisdiction of the County Board of Education, a student or his/her parent/guardian may appeal the expulsion to the County Board within 30 days of the district's action. The appeal shall be filed in writing and shall include the following information:

- 1. Name of the expelled student
- 2. Contact address and telephone number of the student and/or his/her parent/guardian
- 3. School district from which the student was expelled
- 4. Date of the district governing board's action to expel the student
- 5. Ground(s) on which appeal is based

At the time the student or his/her parent/guardian files the appeal, a certified copy of the written transcripts and supporting documents of the expulsion hearing before the district governing board shall also be submitted to the County Board. If the transcript and records are not submitted at the time the appeal is filed, the County Board shall direct the student or parent/guardian to request those documents from the district immediately, and shall inform him/her that the district is required by law to provide the documents to him/her within 10 school days after the request is made. The County Board shall also inform the student or parent/guardian that without the transcripts and records, the County Board hearing may be delayed.

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon the student and the district governing board, by certified mail, return receipt requested, a notice of the hearing, including details such as the date, time, and place of the hearing. The notice shall contain a statement that the hearing shall be in closed session unless the student requests in writing, at least five days prior to the hearing, that the hearing be conducted in open session.

# **Conduct of Appeal Hearing**

The County Board shall hold a hearing within 20 school days of the filing of the appeal. (Education Code 48919)

Every expulsion appeal hearing shall be conducted in accordance with the following procedures:

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Board shall hear an appeal of an expulsion order in

## **STUDENT EXPULSION APPEALS** (continued)

closed session, unless the student requests in writing at least five days prior to the hearing that the hearing be conducted at a public meeting. If such a request is made, the hearing shall be public unless another student's privacy rights would be violated. (Education Code 48920)

Regardless of whether the expulsion hearing is held in closed or public session, the County Board may meet in closed session to deliberate on the appeal. If the County Board admits one of the parties or their representative(s) to the closed session, the other party or their representative(s) shall also be allowed to attend the closed session. (Education Code 48920)

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48919)

## **Scope of Review**

The County Board shall determine the appeal based on the record of the hearing before the district governing board and other applicable documentation and/or regulations. No evidence other than that contained in the record of proceedings of the district governing board shall be heard except in a *de novo* proceeding granted pursuant to Education Code 48923, as described in the section "Final Order of the County Board" below. (Education Code 48921)

The County Board's review shall be limited to: (Education Code 48922)

1. Whether the district's governing board acted without or in excess of its jurisdiction

A governing board may be determined to have acted without or in excess of its jurisdiction in situations including, but not limited to, where an expulsion hearing is not commenced within time periods required by law, where an expulsion order is not based upon any act enumerated in Education Code 48900, or as applicable, in Education Code 48900.2, 48900.3, 48900.4, or 48900.7, or where the student's act is not related to school activity or attendance.

- 2. Whether there was a fair hearing before the district's governing board
- 3. Whether there was a prejudicial abuse of discretion in the hearing

Abuse of discretion is established if:

a. School officials did not meet the procedural requirements of Education Code 48900-48926

## BP 5144.3(c)

# STUDENT EXPULSION APPEALS (continued)

- b. The decision to expel the student is not supported by the findings prescribed by Education Code 48915
- c. The findings are not supported by the evidence
- 4. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced before the district's governing board or which was improperly excluded at that hearing.

## Final Order of the County Board

The County Board shall render its final decision within three school days of the hearing unless the student requests a postponement. (Education Code 48919)

The County Board's decision on every expulsion appeal shall be limited as follows: (Education Code 48923)

1. Where the County Board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced before the district's governing board or which was improperly excluded at the hearing, the County Board may remand the matter to the governing board for reconsideration or grant a hearing *de novo*.

A *de novo* hearing means a new hearing by the County Board to determine all the issues previously considered by the district's governing board.

- 2. If the County Board determines that the district's governing board's decision is not supported by findings required to be made by Education Code 48915 but evidence supporting such findings exists in the record of the proceedings, the County Board shall remand the matter to the district's governing board for adoption and inclusion of the required findings.
- 3. In all other cases, the County Board shall either affirm or reverse the decision of the district's governing board.

If the County Board reverses the district governing board's decision, it may direct the governing board to expunge all references to the expulsion action from the district and student's records, and the expulsion shall be deemed not to have occurred.

### **STUDENT EXPULSION APPEALS** (continued)

The decision of the County Board shall be final and binding upon the student and the district's governing board. The student and the governing board shall be notified of the final order of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered. (Education Code 48924)

Legal Reference:

EDUCATION CODE1981 Enrollment of students17292.5 Program for expelled students35145 Public meetings48900-48918.6 Suspension and expulsion48919-48927 Expulsion appeals to county boards of educationGOVERNMENT CODE11455.20 Contempt54950-54962 Ralph M. Brown Act (re closed sessions)COURT DECISIONSBoard of Education of Sacramento City Unified School District v. Sacramento County Board of Educationand Kenneth H., (2001) 85 Cal.App.4<sup>th</sup> 1321Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182John A. v. San Bernardino School District (1982) 33 Cal. 3d 301, 308

Management Resources:

<u>WEB SITES</u> CDE: http://www.cde.ca.gov CSBA: http://www.csba.org Policy adopted: **Students** 

# **REQUIRED PARENTAL ATTENDANCE**

The Santa Cruz County Board of Education (Board) is committed to providing a safe school environment and setting expectations for appropriate student conduct. The Superintendent or designee may involve parents/guardians in student discipline as necessary to improve a student's behavior and encourage personal responsibility.

(cf. 5131 - Conduct) (cf. 5131.1 - Bus Conduct) (cf. 5131.2 - Bullying) (cf. 5144 - Discipline) (cf. 6020 - Parent Involvement)

When removing a student from class pursuant to Education Code 48910 for committing an act of obscenity, habitual profanity or vulgarity, disruption of school activities, or willful defiance, the teacher of the class may require any parent/guardian who lives with the student to accompany the student for a portion of a school day in the class from which the student has been removed. (Education Code 48900.1)

(cf. 5144.1 - Suspension and Expulsion/Due Process) (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

District and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. (Education Code 48900.1)

Legal Reference: (see next page)

#### **REQUIRED PARENTAL ATTENDANCE** (continued)

Legal Reference:

<u>EDUCATION CODE</u> 35291 Rules (for government and discipline of schools) 35291.5 Rules and procedures on school discipline 48900-48927 Suspension and expulsion, especially: 48900 Grounds for suspension and expulsion 48900.1 Required parental attendance 48910 Suspension by teacher

Management Resources:

<u>CSBA PUBLICATIONS</u> <u>Safe Schools: Strategies for Governing Boards to Ensure Student Success</u>, 2011 <u>U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS</u> <u>Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline</u>, January 2014 <u>WEB SITES</u> CSBA: http://www.csba.org California Attorney General's Office: http://www.oag.ca.gov 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/docs/crdc-2012-data-summary.pdf U.S. Department of Education, Office of Safe and Healthy Students: https://www2.ed.gov/about/offices/list/oese/oshs Policy approved: **Students** 

# **QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT**

The Santa Cruz County Board of Education (Board) believes that the safety of district students and staff is essential to achieving the goal of student learning. In accordance with standards specified in law, law enforcement officers may interview and question students on school premises and may remove them when appropriate.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 3515.3 - District Police/Security Department)
(cf. 4158/4258/4358 - Employee Security)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5145.12 - Search and Seizure)

The Superintendent or designee shall collaborate with local law enforcement agencies to establish procedures which enable law enforcement officers to carry out their duties on school campus, including, when necessary, the questioning and/or apprehension of students.

When any law enforcement officer requests an interview with a student, the principal or designee shall request the officer's identity, his/her official capacity, and the legal authority under which the interview is to be conducted. The principal or designee shall maintain a record of all documentation relative to law enforcement interviews of students.

The principal or designee shall accommodate the interview in a way that causes the least possible disruption for the student and school and provides the student appropriate privacy.

At the law enforcement officer's discretion and with the student's approval, the principal or designee may be present during the interview.

Except in cases of child abuse or neglect, the principal or designee shall attempt to notify the student's parent/guardian as soon as practicable after the law enforcement officer has interviewed the student on school premises.

If a minor student is removed from school into the custody of law enforcement, the principal or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

## Subpoenas

Although subpoenas may legally be served at school on students age 12 or older, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. When served at school, the principal or designee shall take reasonable steps to protect the student's privacy rights and to minimize loss of class time for the student. *Legal Reference: (see next page)* 

#### BP 5145.11(b)

**QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT** (continued)

Legal Reference:

EDUCATION CODE 44807 Duty concerning conduct of pupils 48264 Arrest of truants 48265 Delivery of truant 48902 Notice to law enforcement authorities 48906 Release of minor pupil to peace officers; notice to parent, guardian 48909 Narcotics and other hallucinogenic drugs (re arrest) CODE OF CIVIL PROCEDURE 416.60 Service of summons or complaint to a minor PENAL CODE 830-832.17 Peace officers 1328 Service of subpoena WELFARE AND INSTITUTIONS CODE 627 Custody of minor CODE OF REGULATIONS, TITLE 5 303 Duty to remain at school COURT DECISIONS Camreta v. Greene, (2011) 131 S.Ct. 2020 People v. Lessie, (2010) 47 Cal. 4th 1152 In re William V., (2003) 111 Cal. App. 4th 1464 ATTORNEY GENERAL OPINIONS 54 Ops.Cal.Atty.Gen. 96 (1971) 34 Ops.Cal.Atty.Gen. 93 (1959)

Management Resources:

WEB SITES

California Department of Justice, Office of the Attorney General: http://oag.ca.gov

Policy adopted: **Students** 

### SEARCH AND SEIZURE

The Santa Cruz County Board of Education (Board) is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515 - Campus Security)
(cf. 3515.3 - District Police/Security Department)
(cf. 5131 - Conduct)
(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 1312.1 - Complaints Concerning District Employees) (cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331- Staff Development)

#### **Individual Searches**

School officials may search any individual student, his/her property, or district property under his/her control when there is a reasonable suspicion that the search will uncover evidence that he/she is violating the law, Board policy, administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation. The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

## **SEARCH AND SEIZURE** (continued)

Any search of a student, his/her property, or district property under his/her control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees.

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

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

### **Use of Metal Detectors**

The Board believes that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also believes that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

The Superintendent or designee shall use metal detectors at district schools as necessary to help provide a safe learning environment. He/she shall establish a plan to ensure that metal detector searches are conducted in a uniform and consistent manner.

Legal Reference: (see next page)

#### SEARCH AND SEIZURE (continued)

Legal Reference:

EDUCATION CODE 32280-32289 School safety plans 35160 Authority of governing boards 35160.1 Broad authority of school districts 48900-48927 Suspension and expulsion 49050-49051 Searches by school employees 49330-49334 Injurious objects PENAL CODE 626.9 Firearms 626.10 Dirks, daggers, knives or razor CALIFORNIA CONSTITUTION Article I, Section 28(c) Right to Safe Schools COURT DECISIONS Redding v. Safford Unified School District, 557 U.S. 364 (2009) B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260 Jennings v. Joshua Independent School District, (5th Cir. 1989) 877 F.2d 313 O'Connor v. Ortega, (1987) 480 U.S. 709 <u>New Jersey v. T.L.O.</u>, (1985) 469 U.S. 325 Horton v. Goose Creek Independent School District, (5th Cir. 1982) 690 F.2d 470 Zamora v. Pomeroy, (10th Cir. 1981) 639 F.2d 662 ATTORNEY GENERAL OPINIONS 83 Ops.Cal.Atty.Gen. 257 (2001) 75 Ops.Cal.Atty.Gen. 155 (1992)

Management Resources:

<u>NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS</u> <u>The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law</u> <u>Enforcement Agencies</u>, 1999 <u>WEB SITES</u> CSBA: http://www.csba.org California Attorney General's Office: http://caag.state.ca.us California Department of Education, Safe Schools: http://www.cde.ca.gov/ls/ss National Institute of Justice: http://www.ojp.usdoj.gov/nij Policy adopted: **Students** 

### **RESPONSE TO IMMIGRATION ENFORCEMENT**

The Santa Cruz County Board of Education (Board) is committed to the success of all students and believes that every school site should be a safe and welcoming place for all students and their families irrespective of their citizenship or immigration status.

District staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and federal law. (Education Code 234.7)

(cf. 5111 - Admission) (cf. 5111.1 - District Residency)

No student shall be denied equal rights and opportunities nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the district's programs and activities on the basis of his/her immigration status. (Education Code 200, 220, 234.1)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)

The Superintendent or designee shall notify parents/guardians regarding their children's right to a free public education regardless of immigration status or religious beliefs and their rights related to immigration enforcement. (Education Code 234.7)

(cf. 5145.6 - Parental Notifications)

Consistent with requirements of the California Office of the Attorney General, the Superintendent or designee shall develop procedures for addressing any requests by a law enforcement officer for access to district records, school sites, or students for the purpose of immigration enforcement.

(cf. 1340 - Access to District Records) (cf. 3580 - District Records) (cf. 5125 - Student Records) (cf. 5125.1 - Release of Directory Information)

Teachers, school administrators, and other school staff shall receive training regarding immigration issues, including information on responding to a request from an immigration officer to visit a school site or to have access to a student.

(cf. 4131 - Staff Development) (cf. 4231 - Staff Development) (cf. 4331 - Staff Development)

#### **RESPONSE TO IMMIGRATION ENFORCEMENT** (continued)

The Superintendent or designee shall report to the Board in a timely manner any requests for information or access to a school site by an officer or employee of a law enforcement agency for the purpose of enforcing the immigration laws. Such notification shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information. (Education Code 234.7)

Legal Reference:

EDUCATION CODE 200 Educational equity 220 Prohibition of discrimination 234.1 Safe Place to Learn Act 234.7 Student protections relating to immigration and citizenship status 48204.4 Evidence of residency for school enrollment 48980 Parental notifications 48985 Notices to parents in language other than English **GOVERNMENT CODE** 8310.3 California Religious Freedom Act PENAL CODE 422.55 Definition of hate crime 627.1-627.6 Access to school premises, outsiders UNITED STATES CODE, TITLE 20 1232g Family Educational Rights and Privacy Act COURT DECISIONS Plyler v. Doe, 457 U.S. 202 (1982)

Management Resources:

CSBA PUBLICATIONS

Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017 CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist

California's K-12 Schools in Responding to Immigration Issues, April 2018

WEB SITES

CSBA: http://www.csba.org

California Office of the Attorney General: http://oag.ca.gov

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

California Department of Fair Employment and Housing: http://www.dfeh.ca.gov

California Department of Justice: http://www.justice.gov

U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

U.S. Immigration and Customs Enforcement: https://www.ice.gov

U.S. Immigration and Customs Enforcement, Online Detainee Locator System: https://locator.ice.gov/odls

Policy approved: **Students** 

## FREEDOM OF SPEECH/EXPRESSION

The Santa Cruz County Board of Education (Board) believes that free inquiry and exchange of ideas are essential parts of a democratic education. The Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

(cf. 6142.3 - Civic Education) (cf. 6144 - Controversial Issues)

## **On-Campus Expression**

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on district or school Internet web sites and online media shall generally be afforded the same protections as in print media.

(cf. 1113 - District and School Web Sites) (cf. 6163.4 - Student Use of Technology)

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950, and other applicable state and federal laws.

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous, or slanderous. Students also are prohibited from making any expressions that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

(cf. 5145.7 - Sexual Harassment) (cf. 5145.9 - Hate-Motivated Behavior)

The use of "fighting words" or epithets is prohibited in those instances where the speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of the material violates the law. (Education Code 48907)

# FREEDOM OF SPEECH/EXPRESSION (continued)

The Superintendent or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats, or intimidation unless constitutionally protected. (Education Code 48950)

(cf. 5137 - Positive School Climate)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process: Students with Disabilities)

## **Off-Campus Expression**

A student shall be subject to discipline for off-campus expression, including expression on offcampus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program. The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

(cf. 5131 - Conduct)

Legal Reference: (see next page)

#### FREEDOM OF SPEECH/EXPRESSION (continued)

Legal Reference:

EDUCATION CODE 48907 Exercise of free expression; rules and regulations 48950 Speech and other communication 51520 Prohibited solicitations on school premises UNITED STATES CODE, TITLE 20 4071-4074 Equal Access Act CALIFORNIA CONSTITUTION Article 1, Section 2 Freedom of speech and expression U.S. CONSTITUTION Amendment 1 Freedom of speech and expression COURT DECISIONS Smith v. Novato Unified School District, (2007) 150 Cal.App.4th 1439 Lavine v. Blaine School District, (2001) 257 F.3d 981 Emmett v. Kirkland School District No. 415, (2000) 92 F.Supp. 2d 1088 J.S. v. Bethlehem Area School District, (2000) 757 A.2d 412 (Pa. Commw. 2000) Beussink v. Woodland R-IV School District, (1998) 30 F.Supp. 2d 1175 Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530 Lovell v. Poway Unified School District, (1996) 90 F.3d 367 Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562 Leeb v. DeLong, (1988) 198 Cal.App.3d 47 Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675 Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 350 Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

Management Resources:

<u>WEB SITES</u> CSBA: http://www.csba.org California Department of Education: http://www.cde.ca.gov Policy approved: **Students** 

## NONDISCRIMINATION/HARASSMENT

The County Board of Education is committed to working with the County Superintendent of Schools to provide a safe school environment that allows all students equal access and opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in any county office of education (COE) school, program, or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

#### (cf. 0410 - Nondiscrimination in County Office Programs and Activities) (cf. 5145.7 - Sexual Harassment)

This policy shall apply to all acts related to school activity or to school attendance occurring within a COE school or program, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Unlawful discrimination includes physical, verbal, nonverbal, or written conduct based on a student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also includes the creation of a hostile environment when the prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in any COE school, program, or activity, or the provision or receipt of educational benefits or services, such as prohibiting a student from enrolling in a class or course on the basis of the student's sex.

When, as permitted by law, the COE maintains sex-segregated facilities, such as restrooms and locker rooms, or sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be allowed to access facilities and participate in programs and activities, class discussions, yearbook pictures, and field trips consistent with their gender identity. Each student's gender identity shall be the gender asserted by the student. Transgender and gender-nonconforming students shall be afforded the same rights, benefits, and protections as all COE students.

## NONDISCRIMINATION/HARASSMENT (continued)

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation may be filed in accordance with the County Board's uniform complaint procedures and the processes established by the County Superintendent for investigating and resolving such complaints. Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

### (cf. 1312.3 - Uniform Complaint Procedures)

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation in violation of law, County Board policy, or other related COE procedures shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4.

## **County Superintendent's Antidiscrimination Measures**

The County Board hereby incorporates by reference the policies, procedures, and measures implemented by the County Superintendent to prevent or address unlawful discrimination in COE schools, programs, and activities, including, but not limited to, the following:

- 1. Designation of a coordinator/compliance officer to handle complaints alleging unlawful discrimination
- 2. Posting of information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status in a prominent and conspicuous location on the COE's web site, as required pursuant to Education Code 221.61
- 3. Publicizing of the COE's nondiscrimination policies and complaint procedures
- 4. Provision of training and information about the COE's nondiscrimination policies and complaint procedures, including information related to state and federal laws pertaining to the rights of transgender and gender-nonconforming students, to students, parents/guardians, COE employees, and others as applicable
- 5. Establishment of a complaint process that ensures a prompt and fair resolution of complaints
- 6. Provision of annual notification required by law

### NONDISCRIMINATION/HARASSMENT (continued)

7. Maintenance of student records in accordance with law

Legal Reference:

EDUCATION CODE 200-262.4 Prohibition of discrimination 48900.3 Suspension or expulsion for act of hate violence 48900.4 Suspension or expulsion for threats or harassment 48904 Liability of parent/guardian for willful student misconduct 48907 Student exercise of free expression 48950 Freedom of speech 48985 Translation of notices 49020-49023 Athletic programs 51500 Prohibited instruction or activity 51501 Prohibited means of instruction 60044 Prohibited instructional materials CIVIL CODE 1714.1 Liability of parents/guardians for willful misconduct of minor GOVERNMENT CODE 11135 Nondiscrimination in programs or activities funded by state PENAL CODE 422.55 Definition of hate crime 422.6 Crimes, harassment CODE OF REGULATIONS, TITLE 5 432 Student record 4600-4670 Uniform complaint procedures 4900-4965 Nondiscrimination in elementary and secondary education programs UNITED STATES CODE, TITLE 20 1681-1688 Title IX of the Education Amendments of 1972 12101-12213 Title II equal opportunity for individuals with disabilities UNITED STATES CODE, TITLE 29 794 Section 504 of Rehabilitation Act of 1973 UNITED STATES CODE, TITLE 42 2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964 6101-6107 Age Discrimination Act of 1975 CODE OF FEDERAL REGULATIONS, TITLE 28 35.107 Nondiscrimination on basis of disability; complaints

Legal Reference continued: (see next page)

#### NONDISCRIMINATION/HARASSMENT (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34 100.3 Prohibition of discrimination on basis of race, color or national origin 104.7 Designation of responsible employee for Section 504 106.8 Designation of responsible employee for Title IX 106.9 Notification of nondiscrimination on basis of sex 110.25 Prohibition of discrimination based on age COURT DECISIONS Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567 Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016 CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

FIRST AMENDMENT CENTER PUBLICATIONS

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Collegue Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

WEB SITES

CSBA: http://www.csba.org

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

California Office of the Attorney General: http://oag.ca.gov

California Safe Schools Coalition: http://www.casafeschools.org

*First Amendment Center: http://www.firstamendmentcenter.org* 

National School Boards Association: http://www.nsba.org

U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
Policy version: **Students** 

## SEXUAL HARASSMENT

The County Board of Education is committed to maintaining a safe school environment that is free from harassment and discrimination. Sexual harassment targeted at any student in a county office of education (COE) educational program, school, or school-sponsored or school-related activity is prohibited. The County Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

The County Board strongly encourages students who feel that they are being or have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced an off-campus sexual harassment incident that involved anyone with whom they may continue to have contact on campus, to immediately contact their teacher, the principal or program administrator, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the County Superintendent of Schools or the COE's designated compliance officer so that steps may be taken to investigate and address the allegation in accordance with law and related County Superintendent regulation.

(cf. 0410 - Nondiscrimination in County Office Programs and Activities) (cf. 5145.3 - Nondiscrimination/Harassment)

# **Complaint Process and Disciplinary Actions**

Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and COE uniform complaint procedures. 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. 1312.3 - Uniform Complaint Procedures)

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this County Board policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion.

# Notifications

A copy of the COE'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)

### SEXUAL HARASSMENT (continued)

- 2. Be displayed in a prominent location in the main administrative building or other area where notices of COE rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
- 3. Be posted on COE and program/school web sites and, when available, on COE-supported social media
- 4. 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)
- 5. Appear in any publication that sets forth the program/school's or COE's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
- 7. Be provided to the County Superintendent for distribution to employees and employee organizations

#### Legal Reference:

EDUCATION CODE 200-262.4 Prohibition of discrimination on the basis of sex 1040 Duties and responsibilities; county boards of education 1042 County boards; authority 35160 Authority of county boards 35160.1 Authority of county boards; legislative intent 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 48915 Grounds for expulsion 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 4600-4670 Uniform complaint procedures 4900-4965 Nondiscrimination in elementary and secondary education programs UNITED STATES CODE, TITLE 20 1221 Application of laws 1232g Family Educational Rights and Privacy Act 1681-1688 Title IX, discrimination

Legal Reference continued: (see next page)

#### SEXUAL HARASSMENT (continued)

Legal Reference: (continued)

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 99.1-99.67 Family Educational Rights and Privacy 106.1-106.71 Nondiscrimination on the basis of sex in education programs 106.8 Designation of responsible employee for Title IX 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:

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014 Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011 U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS O&A on Campus Sexual Misconduct, September 2017 Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016 Dear Colleague Letter: Title IX Coordinators, April 2015 Sexual Harassment: It's Not Academic, September 2008 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001 WEB SITES CSBA: http://www.csba.org 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