



April 2023

ANNUAL NOTIFICATION AND THREAT ASSESSMENTS - SB 906

Existing law requires school districts and county offices of education to be responsible for the overall development of a comprehensive school safety plan for each of their schools operating a kindergarten or any of Grades 1 to 12. Additionally, the comprehensive school safety plan must include, among other things, procedures for conducting tactical responses to criminal incidents, including related to individuals with guns on school campuses.

Governor Newsom signed SB 906 into law adding additional requirements for school districts, county offices of education, and charter schools.

Annual Notification

On or before July 1, 2023, the California Department of Education, in consultation with relevant local educational agencies (LEAs), civil rights groups, and the Department of Justice (DOJ), will develop model content that includes, at a minimum, content that informs parents or guardians of California's child access prevention laws and laws relating to the safe storage of firearms. The Department of Education will update the model content yearly as necessary to reflect any changes in law.

Commencing with the 2023-24 school year, LEAs maintaining kindergarten or any of Grades 1 to 12 shall include information related to the safe storage of firearms in the annual notification to parents and/or guardians. As of this update, the Department of Education has not published the model content for the annual notice.

Mandatory Reporting of Perceived or Actual Threats

The new law requires school officials whose duties involve regular contact with pupils in any of Grades 6 to 12, and who are alerted to or observe any threat or perceived threat, to immediately report the threat to law enforcement. As written, the bill only includes Grade 6 if it is part of a middle school or high school. The law requires that the local law enforcement agency or

schoolsite police, as applicable, with the support of the LEA, immediately conduct an investigation and threat assessment as specified in Education Code section 49394. The investigation and threat assessment must include a review of the firearm registry of the DOJ and, if justified by a reasonable suspicion that it would produce evidence related to the threat, a schoolsite search. An LEA is immune from civil liability for any damages allegedly caused by, arising out of, or relating to the investigation and threat assessment.

“Threat or perceived threat” means any writing or action by a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual.

“Reasonable suspicion” means articulable facts, together with rational inferences from those facts, warranting an objective suspicion.

Conclusion

As written, it is unclear how the threat reporting requirements affect schools serving Grades K-8. Our recommendation is to include Grades 6-8 in this scenario. Also, the addition of Education Code section 49394 may require changes to how threat assessments are conducted. Finally, all districts will need to update their annual notice for the 2023-24 school year. Schools Legal Service will provide an updated annual notice to include the model content prepared by the Department of Education.

Please let us know if you have any questions or need further information.

~ Mark Pafford

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