

Cecilia Massetti, Ed.D.
Superintendent

CONDITION OF EMPLOYMENT PURSUANT TO BOTH DEPENDENT
ADULT ABUSE AND CHILD ABUSE REPORTING

NAME: _____

POSITION: _____

LEGAL REQUIREMENTS:

Dependent Adult Abuse Reporting: Any person initially or continually employed on or after January 1, 1986...in an educational institution...shall sign a statement to the effect that he or she has knowledge of the provisions of Section 15630 (of the California Welfare and Institution Code) and will comply with its provisions.

Child Abuse Reporting: Any person employed after January 1, 1985 as a teacher, instructional aide, teacher's assistant, administrative officer, supervisor of child welfare and attendance, certificated pupil personnel employee of any public or private school...licensed day care worker, administrator of community care facilities licensed to care for children, headstart teacher...social worker...medical practitioner or nonmedical practitioner...and any other employees of an educational institution... shall sign a statement to the effect that he or she has knowledge of the provisions of Section 11166 (of the California Penal Code) and will comply with its provision.

REPORTING RESPONSIBILITIES:

Both Statutes require immediate telephone reporting as soon as practically possible to: (1) a county adult protective services agency (or local law enforcement agency) when incidents pertain to dependent adult abuse or (2) a child protective agency for known or suspected incidents of child abuse. Also, a written report must be prepared and submitted within 36 hours of receiving information concerning the incident.

IMMUNE FROM LIABILITY:

No individual required to report a known or suspected instance of abuse shall be civilly or criminally liable for providing information authorized by both Statutes (PC 11172 (a) and WIC 15634) unless it can be proven that a false report was made and the person knew the report was false.

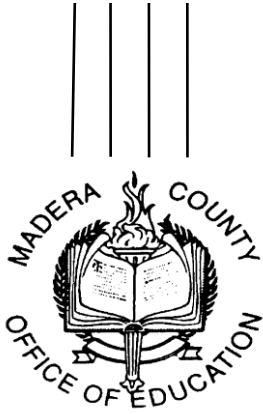
FAILURE TO REPORT:

Any person who fails to report an instance of either dependent adult abuse or child abuse which he or she knows to exist or reasonably should know to exist, as required by law, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine of not more then One Thousand Dollars (\$1,000.00) or by both.

Pursuant to the requirements of the Welfare and Institutions Code (Section 15630) and California Penal Code (Section 11166), I have read and understand the provisions of both as stated herein and attached and will comply with their reporting requirements. I have also been provided with an information brochure entitled "Staff Responsibility in Relation to Child Abuse."

Signature

Date



Cecilia Massetti, Ed.D.
Superintendent

STAFF RESPONSIBILITIES IN RELATION TO CHILD ABUSE

WHAT ARE THE DUTIES IMPOSED?

The primary legal obligation set forth in Penal Code Section 11165, et seq., is a reporting duty. Teachers and other designated school personnel (here forth to be considered all staff of the Madera County Office of Education) must:

Report by telephone immediately to a child protective agency any known or suspected incidents of child abuse and submit a written report within 36 hours of receiving the information on the incident,

AND

If first employed after January 1, 1985, sign a form acknowledging the reporting requirements of Penal Code Section 11166.

The reporting duty is a serious obligation. A teacher or staff who fails to report a known or suspected incident of abuse of a child under the age of 18 will be subject to criminal penalties. "Child Abuse" includes physical injury, pain, or neglect; sexual assault; and emotional abuse or neglect.

It is important to realize that the reporting responsibility is an individual duty. No one, including other school personnel, may impede or prohibit an individual from performing the legal duty to report.

WHAT IS THE SCOPE OF THE REPORTING DUTY?

A teacher or staff who has knowledge of or observes a child who he or she knows or reasonably suspects has been a victim of physical child abuse must report this information immediately; the suspected infliction of mental or emotional suffering may be reported, but is not required to be, as is the case with physical abuse.

A teacher or staff may have knowledge either from direct observation of the abuse, or if a child tells a teacher he or she has been abused. A teacher or staff should not weigh the credibility of a child's statement or account of any alleged abuse suffered. There is an absolute duty to report any such knowledge. The child protective agency will determine the accuracy of the report. A teacher or staff will not be liable because an alleged abuse proves to be untrue.

Any reasonable suspicion of an instance of child abuse must be reported. "Reasonable suspicion" means that if another person with similar training and experience were presented with the same observable facts as the teacher or staff in question would reasonably have suspected child abuse-then the teacher or staff also should have suspected the abuse.

The "reasonable person" standard only applies to whether or not a teacher or staff would be held liable for not reporting. It does not mean that if a teacher or staff makes a report based upon "suspicions" that prove to be unfounded that this teacher or staff will be liable. There will be no liability for any report made, unless the report is intentionally fraudulent.

TO WHAT EXTENT IS A TEACHER OR STAFF LIABLE FOR REPORTING?

There will be no liability for reporting a known or suspected instance of child abuse, or for providing a requesting agency with "access" to a suspected child abuse victim. There will be no liability if any individual at his or her discretion with or without parental consent, takes photographs of a suspected victim, as long as the photographs are used solely for reporting purposes.

For failure to report, the sanction is a \$1,000 fine, six months in jail, or both. While the laws grant immunity from liability for reporting as required, the laws cannot prohibit a party from trying to sue a teacher or staff. However, if an action is brought against a teacher or staff for reporting as required, the State will pay for the attorneys' fees incurred.

WHEN IS A TEACHER OR STAFF RESPONSIBLE FOR REPORTING?

Responsibility for reporting arises "while in the scope of his or her employment" or "in his or her professional capacity" a teacher has knowledge of, observes, or suspects a child has been the victim of child abuse.

“Within the scope of employment” encompasses all times and occasions when an individual is performing required job duties, both on and off the school campus. “In his or her professional capacity” conceivably extends this duty to occasions where an individual is not “on the job” but is present in a situation as a professional educator.

EXACTLY WHO MUST REPORT AND TO WHOM ARE THE REPORTS MADE?

The Penal Code states that “child care custodians” are responsible for reporting child abuse. Public school personnel are among those mentioned in the definitions of child care custodians and include: teachers, administrative officers, certificated pupil personnel employees, supervisors of child welfare and attendance, public day care administrators, headstart teachers, registered nurses and other employees of an educational institution.

A report of a known or suspected instance of child abuse must be made to a child protective agency, which means a police or sheriff’s department, a county probation department or a county welfare department.

If two or more “child care custodians” jointly have knowledge of, or suspect child abuse, only one person need make the required phone call, if they both agree. And, only one written report must be submitted, but each must individually sign the report. Although two or more persons may agree to share in the report, each person is individually responsible for making sure the phone call is indeed made and the report is actually submitted.

SECTION 11166 OF THE PENAL CODE:

11166.

- (a) Except as provided in subdivision (b), any child care custodian, health practitioner, . . . employee of a child protective agency, or child visitation monitor who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victims of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy. For the purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.
- (b) Any child care custodian, health practitioner, . . . employee of a child protective agency, or child visitation monitor who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of child abuse to a child protective agency.
- (c) Any commercial film and photographic print processor who has knowledge of, or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, “sexual conduct” means any of the following:

- (1) Sexual intercourse, including genital-genital, oral genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
 - (2) Penetration of the vagina or rectum by any object.
 - (3) Masturbation...for the purpose of sexual stimulation of the viewer.
 - (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
 - (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.
- (d) Any other person who has knowledge of, or observes, a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.
- (e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reported team. Any member who has knowledge that the member designated to report has failed to do so...shall thereafter make the report.
- (f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with...this article.

The internal procedures shall not require any employee required to make reports...pursuant to this article to disclose his or her identity to the employer.

- (g) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Section

11165.6 except acts or omission coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relate solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall...be reported only the county welfare department. A county probation or welfare department...also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall...be reported only to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency...also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

Ref: PC 11164 – 11165.15 (inclusive)
PC 11166.1 – 11166.3 (inclusive)

4000 PERSONNEL

4100-PROVISIONS RELATING TO ALL EMPLOYEES

DRUG FREE WORKPLACE AWARENESS POLICY

MCOEP 4126

1. The Madera County Office of Education shall provide a safe and secure environment, which encourages and supports students and staff in their efforts to lead healthy and productive lives. It is the policy of the County Office to maintain a drug-free workplace by prohibiting the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by any Madera County Office of Education employee on premises owned, occupied, controlled or used by the County as a workplace. This policy is designed to eliminate alcohol and other drug use by District employees, which adversely affects an employee's ability to safely and satisfactorily perform his/her job. Employees must report to work in a fit condition for duty. Being under the influence of alcohol or drugs is prohibited.
 - a. Employees who are under a doctor's care and are taking medication as prescribed by the physician shall not be considered in violation of this policy. Should such medication result in possible impairment to perform regularly assigned tasks, the employee must notify the office and a determination will be made concerning appropriate reassignment or modification of assignment/duties.
2. The Superintendent or designee shall establish and maintain a drug-free awareness program to inform employees about:
 - a. The dangers of substance abuse in the workplace;
 - b. The County policy of maintaining a drug-free workplace;
 - c. The availability of information and assistance from the Employee Assistance Program and the Office of Substance Abuse Prevention;
 - d. The penalties that may be imposed upon employees for drug use violations.

The Superintendent or designee will take appropriate action against employees who use, distribute, possess controlled substances on the job, and who violate Madera County Superintendent of Schools rules in reference to possession of alcohol on the job. Employees who use or distribute drugs on the job are subject to discharge, and any drugs confiscated will be turned over to local law enforcement.

Any employee who is visibly impaired due to the use of alcohol or drugs, is involved in an on-the-job accident or sustains an on-the-job injury due, in part, to drug use, has abused alcohol and/or drugs.

Symptoms of alcohol impairment include:

- a. Frequent tardies;
- b. Frequent absences;
- c. Abnormally thick, slurred, or loud speech;
- d. Flushed face;
- e. Red, watery eyes; heavy eyelids, fixed pupils;
- f. Foul, distinctive odor of alcohol or liquor on breath;
- g. Unsteady walk, stoop, walking too deliberately or over carefully, or swaying and weaving;
- h. Excessive, silly, or boisterous behavior.

Symptoms of drug impairment include:

- a. Frequently tardies;
- b. Frequent absences;
- c. Inconsistent work quality;
- d. Significant or recurring errors in judgment;
- e. Measurable mood swings;
- f. Erratic or irrational behavior.

If an employee is under treatment with a drug that could alter his or her ability to do the job, the employee could be subject to reassignment.

If an employee is arrested off the job for drug involvement, the district will consider the various circumstances surrounding the arrest before taking disciplinary action.

Each employee shall notify the Superintendent in writing of any criminal drug statute conviction in the workplace no later than five (5) days after such conviction.

The Superintendent or designee shall take the following actions within thirty (30) days of receiving such notice:

- a. Take appropriate disciplinary action against such an employee, up to and including termination; and/or,
- b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

The Superintendent shall notify the appropriate federal agency with whom contracts are held or from whom grants are received within ten (10) days after

receiving notice from an employee or otherwise receiving actual notice of such conviction for a violation occurring in the workplace.

Alcoholism and drug abuse are recognized as illnesses or “disorders,” and the County Office accepts responsibility for providing channels of help by making available the locations of drug counseling, rehabilitation and employee assistance programs in the community, but it is the employee’s responsibility to seek help.

If the employee seeks help prior to discovery, then confidentiality, job security, and promotional opportunities will be protected. But if the employee does not seek help and the problem in some way comes to the attention of the Superintendent, then disciplinary action will result.

The Superintendent or designee shall certify to the Federal government that the County Office of Education maintains a drug-free workplace.

The Superintendent or designee will make a good faith effort to continue maintaining a drug-free workplace through implementation of this policy.

All employees shall abide by this policy as a condition of employment and shall receive a written copy of this statement.

APPROVED BY BOARD OF EDUCATION: 11/14/89
REVIEWED AND RENUMBERED: JULY 11, 2000

2000 - ADMINISTRATIVE COMPLIANCE/APPEALS

2300 - GENERAL ADMINISTRATION COMPLIANCE

TOBACCO-FREE ENVIRONMENT POLICY

MCOEP 2380

The Madera County Office of Education shall provide a work and educational environment encouraging and supporting students and staff in their efforts to live healthy and productive lives.

Effective July 1, 1995, the use of tobacco products is prohibited at all times on all property and in all facilities owned, leased, and/or operated by the Madera County Office of Education, whether indoors or out of doors; and in all vehicles owned, leased, and/or operated by the Madera County Office of Education. This prohibition applies to all employees, students, visitors and other persons in any program or at any meeting or event on any property owned, leased, or operated by or from the Madera County Office of Education. This prohibition shall apply at any Madera County Office of Education sponsored program, event or activity where students are present, even if such program, event, or activity is not on property owned, leased, or operated by the Madera County Office of Education.

As required by law, the county office provides instructional programs designed to discourage students from using tobacco products. County school employees are expected to serve as models for good health practices that are consistent with these instructional programs.

All individuals on county premises share in the responsibility of adhering to this policy and informing appropriate school officials of any violations. A list of resources which may assist employees and students who wish to stop using tobacco products will be provided.

Students shall not smoke, chew or possess tobacco or nicotine products on school property or during school hours, at school sponsored events, or while under the supervision of district employees. Students who violate this prohibition shall be subject to disciplinary procedures which may result in consequences previously established by the Madera County Office of Education or the school district of the site housing a county program.

Signs prohibiting the use of tobacco shall be prominently displayed at all entrances to county school's property.

Legal References:

Health and Safety Code

24167 Implementation of tobacco use prevention program

39002 Control of air pollution from non-vehicular source

Education Code

48901 Smoking or use of tobacco

PERB Rulings

California School Employees Association, Chapter 506 and Associated Teachers of Metropolitan Riverside v. Riverside Unified School District (1989) PERB Order #750 (13 PERC 20147)

Eureka Teachers Association v. Eureka City School District (1992) PERB Order #955 (16 PERC 23168)

Adopted by Board: June 13, 1995
Revised: May 9, 2000

2000 - ADMINISTRATIVE COMPLIANCE/APPEALS

2300 - GENERAL ADMINISTRATION COMPLIANCE

TOBACCO-FREE ENVIRONMENT POLICY

MCOE AR 2380

The Superintendent or designee shall notify employees of the county school's tobacco-free schools policy. The notification shall also inform them of:

1. Their need to abide by county school's policy as a condition of employment.
2. The dangers of tobacco use in the workplace, including its threat to the health and safety of employees, students and the public.
3. Available resources which may help employees stop using tobacco.
4. Possible disciplinary actions in accordance with Board policy, state law and applicable collective bargaining agreements.

ENFORCEMENT PROCEDURES FOR COMMUNITY MEMBERS

Community members who smoke on county property shall be informed of the county school's tobacco-free schools policy and asked to refrain from smoking. If the person fails to comply with this request, the following actions may ensue:

1. The matter may be referred to the Superintendent or designee responsible for the area of the event.
2. If the person fails to refrain when so requested by the Superintendent or designee, the Superintendent or designee may direct him/her to leave school property.
3. If necessary, the Superintendent or designee may request local law enforcement assistance in removing the person from school premises.

4000 PERSONNEL

4100-PROVISIONS RELATING TO ALL EMPLOYEES

GENERAL HARASSMENT INCLUDING SEXUAL HARASSMENT

SP 4123

The Madera County Superintendent of Schools prohibits harassment in the working environment of employees or applicants by any person in any form.

Employees who permit or engage in such harassment may be subject to disciplinary action up to and including dismissal.

Any employee or applicant for employment who feels that he/she or another individual is being harassed should immediately contact his/her supervisor, or the Division Administrator, Business and Administrative Services, in order to obtain procedures for reporting a complaint. Complaints of harassment can be filed in accordance with BP 4120 – Complaints Concerning Discrimination in Employment.

Any supervisor who receives a harassment complaint shall notify the Division Administrator, Business and Administrative Services, who shall ensure that the complaint is appropriately investigated.

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

Legal Reference:

EDUCATION CODE

200-240 Prohibition of discrimination on the basis of sex especially:
212.5 Sexual harassment defined
212.6 Sexual harassment policy
230 Particular practices prohibited

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

LABOR CODE

1101 Political activities of employees
1102.1 Discrimination: sexual orientation

UNITED STATES CODE, TNLE 42

2000d & 2000e et seq. Title VI & Title VII Civil Rights Act as amended
2000h-2 et seq. Title IX, 1972 Education Act Amendments

Harassment of or by any employee shall not be tolerated. The Madera County Superintendent of Schools considers harassment to be a major offense which may result in disciplinary action or dismissal of the offending employee.

DEFINITIONS:

- A. Pursuant to Education Code Section 212.5, unwelcome advances, requests for favors, and other verbal, visual, or physical conduct constitute harassment when:
 - 1. Submission to the conduct is made either an explicit or implicit condition of employment, status, or promotion.
 - 2. Submission to, or rejection of, the conduct is used as the basis for an employment decision affecting the harassed employee.
 - 3. The harassment substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.
 - 4. Submission to, or rejection of, the conduct is the basis for any decision affecting benefits, services, honors, programs, or other available activities.

- B. Unlawful harassment may take many forms, including but not limited to:
 - 1. VERBAL CONDUCT such as epithets, derogatory comments, slurs, or unwanted advances, invitations, or comments.
 - 2. VISUAL CONDUCTS such as derogatory posters, cartoons, drawings, or gestures.
 - 3. PHYSICAL CONDUCT such as assault, blocking normal movement, or interference with work directed at you because of your sex or other protected basis.
 - 4. THREATS AND DEMANDS to submit to sexual requests in order to keep your job or avoid some other loss, and offers of job benefits in return for sexual favors.
 - 5. RETALIATION for having reported the harassment.

- C. Other examples of harassment, whether committed by a supervisor or any other employee, are:
 - 1. Unwelcome leering, sexual flirtations, or propositions.
 - 2. Unwelcome slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions.
 - 3. Graphic verbal comments about an individual's body or overly personal conversation.

4. Sexual jokes, stories, drawings, pictures, or gestures.
5. Spreading rumors.
6. Touching an individual's body or clothes in a sexual way.
7. Cornering or blocking of normal movements.
8. Displaying sexually suggestive objects in the work environment.

NOTIFICATIONS

A copy of the Office's policy on Harassment in Employment shall:

1. Be displayed in a prominent location.
2. Be provided to each employee beginning the first semester of the school year, or whenever a new employee is hired.
3. Appear in any office publication that sets forth the Office's comprehensive rules, regulations, procedures, and standards of conduct. (Education Code 212.6).

All employees shall receive information sheets which contain, at a minimum, components on:

1. The illegality of harassment.
2. The definition of harassment under applicable state and federal law.
3. A description of harassment, with examples.
4. The Office's complaint process available to the employee.
5. The legal remedies and complaint process available through the Fair Employment and Housing Department and Commission.
6. Directions on how to contact the Fair Employment and Housing Department and Commission. (Government Code 12950)

INVESTIGATION OF COMPLAINTS:

An employee who feels that he/she is being harassed is encouraged to immediately report such incident to his/her supervisor, or the Division Administrator, Business and Administrative Services, without fear of reprisal. The Division Administrator, Business and Administrative Services, shall be informed of all such complaints and assist in the investigation and resolution of complaints.

At the minimum, when an employee complains about harassment, the supervisor or the Division Administrator, Business and Administrative Services, will:

1. Fully inform the employee of her/his rights to complain and redress the harassment; the employee must be informed of his/her own obligations to secure her/his rights and of any other assistance available to her/him under the Department's procedures;
2. Immediately conduct a thorough, objective, and complete investigation of the alleged harassment. The Superintendent must make a determination about whether unlawful harassment occurred and communicate this alleged finding to the harasser and any other concerned party; and the Superintendent will take prompt and effective remedial action if harassment has occurred. The action must be commensurate with the severity of the offense and be made known to the victim.

Complaints involving harassment shall not be subject to any requirement that would cause the employee to resolve the complaint directly with the offending person.

Legal Reference: Education Code
200 et al. – Prohibition of discrimination on the basis of sex
212.5 – Sexual harassment defined
230 – Particular practices prohibited, including sexual harassment

Title VII, Civil Rights Act as amended by Title IX,
Equal Employment Opportunity Act,
42 USC Section 2000-E(a)(e)

Meritor Savings Bank, FSB v. Vinson et al.
(1986) GIL, Ed. 2d 49)

**Madera County Superintendent of Schools
Employee Computer, Telephone, and Network Acceptable Use Policy**

Dear Madera County Superintendent of Schools Employee:

The Information Age revolution brings with it a host of new laws that reflect the fast paced change of electronic communication. It is important to understand employees' rights and privileges when using Madera County Superintendent of Schools (MCSOS) resources in this changing environment. This document describes computer, telephone, and network resources made available by MCSOS and each employee's responsibilities and obligations when using these resources.

All MCSOS employees are required to read the policy and sign the Employee Agreement sheet. This policy will evolve as technology and laws change. Information Services staff working with Human Resources will be responsible for development, maintenance, and enforcement of this and related policies, and to inform employees of updates and changes via email and the MCSOS Intranet.

Please sign the Acceptable Use Policy Agreement form attached to this document and return it to the Director of Human Resources, Cheryl Lara. Thank you for your time and cooperation.

Respectfully,

Jeffrey Bottorff
Director, Information Services

2000 – ADMINISTRATION

2300 – GENERAL ADMINISTRATIVE COMPLIANCE

MCSOS EMPLOYEE COMPUTER, TELEPHONE AND NETWORK ACCEPTABLE USE POLICY

SP2310

MCSOS COMPUTER AND NETWORK ENVIRONMENT

MCSOS has created extensive networks with information, telephone, and computing resources for staff and student use. In addition, MCSOS provides a large and continuously growing number of computer workstations, printers, peripherals, software, training, and supplies to all sites. These items are provided to allow you and others within MCSOS to perform tasks effectively in meeting the goals and needs for which MCSOS was established.

By nature, design, and function, the MCSOS computer network and resources must provide a relatively open environment. While automatic and procedural security controls are in place to prevent or reduce unauthorized access to these resources, the primary responsibility for maintaining the security of this information and its resources lies with the employee.

Improper use of any of these resources can cause problems related to the needs of some or all employees and students of MCSOS. Violation of specific Local, State, and Federal laws referenced later in this document may call for prosecution under the law including fines and imprisonment. MCSOS may take disciplinary action against employees for misuse of computers, network, and information resources.

The use of the computers, network, and other information resources are a privilege. If that privilege is misused, resources can be limited and an employee can be denied network resources.

PRIVACY RECORDS OF MCSOS – STUDENT, STAFF, AND BUSINESS INFORMATION

Both student and employee records are protected by various State and Federal laws.

As described by the following statutes:

- Education Code. Section 67100
- Information Practices Act of 1977 (Civil Code section 1798)
- Public Records Act, Code section 6250
- Penal Codes. Section 502 Federal Statutes
- Federal Family Educational Rights and Privacy Act of 1974
- Federal Privacy Act of 1974
- Electronic Communications Privacy Act of 1986
- And others as they apply

It is probable that during employment with MCSOS, the employee will have access to student, employee, and business information that is confidential. The employee is responsible to safeguard this information from unauthorized persons. Employees shall not seek to use personal or confidential information for their own use or personal gain. Employees must take all reasonable precautions to ensure privacy is maintained under the law while handling information in any form, including, but not limited to: voice, electronic (disk file, diskette, CD ROM, magnetic tape, E-mail, etc.), paper, photograph, and microfiche information. Included under this precaution is the disposal of any related materials as previously described.

OWNERSHIP

The MCSOS business information, telephone, network, computer, software resources, peripherals, and supplies are the property of MCSOS. These resources are provided to meet the needs of MCSOS programs and services. They do not belong to individuals, but are only "loaned" to the individual for the purposes required of the position for which he or she is employed by MCSOS.

2000 – ADMINISTRATION

2300 – GENERAL ADMINISTRATIVE COMPLIANCE

MCSOS EMPLOYEE COMPUTER, TELEPHONE AND NETWORK ACCEPTABLE USE POLICY

SP2310

USE OF TELEPHONES, CELL PHONES, AND VOICEMAIL

Telephones or cell phones are provided to conduct the business of MCSOS. In many cases, voice mail is also provided. These services are intended to provide a means of communication for employees to contact parents and students, agencies, vendors, other institutions, and government officials. When using these services, the employee should always reflect a businesslike and professional demeanor. When an employee has used a phone for personal use, the employee must reimburse MCSOS for any charges incurred.

USE OF PERSONALLY OWNED SOFTWARE OR EQUIPMENT

MCSOS attempts to ensure that all hardware and software meet specific standards, which will operate without causing disruption of MCSOS computer and network resources. Therefore, the use of personally owned software or software that can be downloaded from the Internet as well as personally-owned computer hardware, is **not** permitted, except where authorized by the Director of Information Services or his/her designee.

SOFTWARE COPYRIGHT LAW

Violations of copyright laws have the potential of costing millions of dollars. Employees are prohibited from installing any software without having proof of licensing. Employees may not install on multiple machines software licensed for one workstation. The employee should be aware that, for example, a MCSOS division or program purchases a new workstation, the MCSOS division must also purchase new software licenses for the software that will be installed on it. If the computer being replaced will be retired from use, the software may be removed from it and transferred to a new workstation.

USE OF THE INTERNET

The Internet provides an extremely valuable resource for learning and communicating with people throughout the world. It can be a marvelous tool to enhance student and staff education and productivity. The Internet also contains a large amount of information that is inappropriate for use in an educational institution.

Employees will use Internet resources, therefore, it must be emphasized that these resources are provided at MCSOS expense to enhance the employee job function and maximize job effectiveness. Employees are not to let personal use of the Internet displace time spent performing work duties. Every transaction completed on the Internet represents MCSOS. It is imperative that employees not use the Internet in such a way as to bring civil or criminal liability or public reproach upon MCSOS.

Materials obtained from the Internet are copyrighted. With proper citation limited educational use is permitted under the "Principle of Fair Use" as defined in the U.S. copyright law. These materials may not be redistributed on the Internet or in any other manner without written consent of the copyright owner. Information is available from Information Services or Educational Services staff regarding specific questions on the project prior to publishing or republishing any information in paper or electronic form.

USE OF COMPUTER RESOURCES

The computer resources of the MCSOS are used by thousands of students and employees. In order to ensure that these resources are available and working properly, personal use of these resources must not negatively impact others. For example, an employee may not attempt to break into computer systems or their resources to which they have not been granted authorization. An employee may not attempt to maliciously alter, erase, damage, destroy, or make otherwise unusable or inaccessible any data or software, computer, or network system. An attempt or action of this nature is a felony, and may result in any combination of disciplinary action and/or prosecution and fines including litigation costs and payment of damages under applicable Local, State, and Federal statutes.

2000 – ADMINISTRATION

2300 – GENERAL ADMINISTRATIVE COMPLIANCE

MCSOS EMPLOYEE COMPUTER, TELEPHONE AND NETWORK ACCEPTABLE USE POLICY

SP2310

PRIVACY INFORMATION

Use of MCSOS computer network storage systems is for the business of MCSOS and its employees. Home folders, shared folders, and email that are residing on these servers are **not private**. Although MCSOS will not allow open access to all information stored on MCSOS computer network, to all employees, the designated Leadership Team may examine all files, data, emails sent, and received.

EMPLOYEE'S COMPUTER ACCOUNT

In order for employees to utilize the MCSOS computer and network resources, an employee will be assigned a USER ID and PASSWORD. Members of The Leadership Team may authorize an employee to view, create, alter, delete, print, and transmit information.

Employees are responsible for maintaining the security of their personal account and may not release it for use by any other individual. An employee must accord their user account as the same significance as a hand-written signature. Failure to do so, by releasing this information to another individual may be considered false representation and result in disciplinary action.

This means that it is extremely important that an employee use a password that cannot be guessed by others through knowledge about that employee. For example, never use personal names such as children or pets, or names that begin or end with numbers. Never use Social Security Numbers, bank PINs or words that can be found in any dictionary. Never use names spelled backwards, or adjacent keys on a computer keyboard (i.e.. QWERTY). All of the above provide an easy way for a hacker to break into a computer system and, using the employee's rights and privileges, cause damage and destruction. An employee must also never write down their USER ID or PASSWORD unless the employee stores it in their personal possession or other location away from their place of work. Even then, write it in such a way that no clue is given as to the purpose for its use. Please contact Information Services if there is suspicion that someone else may have accessed an employee's account. It is a simple matter to change a password in a few seconds, but it may take days to reconstruct damaged records or computer systems if someone breaks in with an employee's account rights. Where an employee has the ability to change their own password, make it a habit of periodically changing passwords for these accounts.

An employee should never leave a workstation unattended while signed on to any account, doing so allows anyone to sit at their workstation using that individual's rights and privileges, to perform destructive acts. This has been the most common method used in the past for employees, students, or guests to make changes to information, data, or network resources.

Under certain circumstances, USER IDs and PASSWORDS may be shared by a group of employees where doing so makes information access convenient with a minimum of administrative overhead. Examples include MCSOS subscribed online services that teachers may wish to access from outside of the MCSOS network. Group IDs and passwords should be held in confidence and never shared with anyone. If an employee suspects that the security of such information has been compromised, notify the Network Administrator at once.

Only authorized employees may have direct publishing (writing privilege) access to MCSOS website, email, and list servers. All other unauthorized access will be considered a transgression with hostile intent. All such activities will be remanded to the authorities for further investigation and prosecution.

2000 – ADMINISTRATION

2300 – GENERAL ADMINISTRATIVE COMPLIANCE

MCSOS EMPLOYEE COMPUTER, TELEPHONE AND NETWORK ACCEPTABLE USE POLICY

SP2310

COMPUTER VIRUSES AND OTHER DESTRUCTIVE PROGRAMS

The computer industry faces a continuing onslaught of malicious viruses, worms, and other damaging programs that attack computer and network resources. MCSOS attempts to maintain anti-virus software in order to minimize impact of these viruses; however, employees are responsible to take precautions to protect their computer and all others throughout MCSOS. If prompted with a virus warning or if the email application has a list of infected emails, immediately contact Information Services and follow their specific instructions.

Be very aware of opening email attachments. When in doubt, DO NOT OPEN the attached file!

Likewise, do not download any software from the Internet unless directed or authorized to do so by the Director of Information Services or his/her designee. Even a very respectable company may unknowingly release products which include hidden or unknown viruses. Do not share any downloaded software with others until Information Services staff verified that it does not harbor viruses.

ELECTRONIC MAIL

MCSOS encourages the use of electronic mail (email) to enhance communication and business activities. Users of this service need to be aware however that this technology is still developing, and policies like this one are necessary to ensure appropriate use and to prevent or limit disruptions to work activity and computer services.

Please read the following sections carefully:

CAUTIONS ABOUT THE USE OF ELECTRONIC MAIL

The nature of electronic mail at this date makes it susceptible to misuse. Users need to be aware that sensitive or private information can easily be forwarded to other individuals the originator never intended. This is possible both within MCSOS system and externally throughout the world.

MCSOS has backup procedures to secure documents and data. The fact that an employee has "deleted" an email message does not necessarily mean that it cannot be retrieved. Users of MCSOS email services need to be aware that use of email is a privilege granted with the expectation it will be used for business purposes and in a professional and courteous manner. All email sent or received by individuals through MCSOS employee accounts are the property of MCSOS and may be examined by the employee's supervisor.

There is no guarantee that email received was in fact sent by the purported sender. Where it is a simple matter to disguise the sender's identity, such action would be in violation of this policy. Furthermore, the forwarder may modify email that is forwarded. As with any document if a message is received and appears unusual or which the employee feels may be questionable, check with the purported sender to verify authorship and authenticity.

While MCSOS does not have the time nor inclination to monitor or read individual email messages, in the event that questionable or inappropriate use is suspected or known, such email may be examined and may be cause for disciplinary action ranging from revoking the email account up to employee termination. Users should also be aware that in the general course of business, System Administrators and email operators might need to observe messages in order to verify system operation.

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MCSOS EMPLOYEE COMPUTER, TELEPHONE AND NETWORK ACCEPTABLE USE POLICY

SP2310

EMAIL – PERSONAL USE

Private or personal non-commercial use of MCSOS email is permitted as long as it is not excessive and does not interfere with MCSOS normal business practices and the performance of the employee's tasks. Employees should exercise sound judgment and sensitivity to others when exchanging personal messages in the workplace.

EMAIL – STATE, FEDERAL, AND COPYRIGHT LAWS

Use of MCSOS email services is subject to all applicable Federal and State communications and privacy laws. In particular, users need to be aware that attaching programs, sound, video, and images to email messages may violate copyright laws, and data files containing employee and/or student information is subject to all privacy laws.

EMAIL RESTRICTIONS

Electronic mail may **not** be used for:

- Unlawful activities
- SPAM or email bombs: *the intentional and destructive use of email to disable or disrupt another person or organization's email system.*
- Use that violates MCSOS, State, or Federal policies
- Any other use which interferes with computing facilities and services of MCSOS

EMAIL AND REPRESENTATION

Users shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of MCSOS, unless they are appropriately authorized, explicitly or implicitly, to do so. Where appropriate, and based on context, an appropriate disclaimer would be: "These are my own statements and views and do not represent those of Madera County Superintendent of Schools."

EMAIL – FALSE IDENTITY

Employees shall not employ a false identity in sending email or alter forwarded mail out of the context of its original meaning.

EMAIL – MISUSE OF COMPUTING SERVICES

Email services shall not be used for purposes that could reasonably be expected to cause either directly or indirectly, excessive strain on MCSOS computing facilities, or cause interference with others' use of email, email systems, or any computing facilities or services. For example, attaching large files over 1 MG (megabyte) and sending these to multiple users, or repeatedly to the same user is a violation of this policy.

EMAIL – SECURITY AND CONFIDENTIALITY

The confidentiality of electronic mail cannot be assured. Employees should exercise extreme caution in using email to communicate confidential or sensitive material.

2000 – ADMINISTRATION

2300 – GENERAL ADMINISTRATIVE COMPLIANCE

EMAIL – ARCHIVING AND RETENTION

MCSOS maintains an ongoing backup schedule of computer data in order to ensure that these files and infrastructure may be restored to use in the event of damage and/or destruction. Because of this practice, email may be stored on backup media for extended lengths of time. Messages, which a user assumes to be deleted, may be restored if requested by the appropriate MCSOS authority.

Each user should consider whether he/she wants to archive personal messages to his/her workstation's hard drive or other disk media on a regular basis. The possibility always exists that information may be lost due to software or hardware failure. MCSOS is to retain email online for 60 days. Thus users should be careful not to consider email transactions as a long-term filing system.

While MCSOS maintains a backup of all email, it is not feasible nor a common practice to restore lost or damaged email.

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

BP 2310

It is the intent of the Board of Education to adhere to the provisions of all copyright laws and to maintain the highest ethical standards in the use of copyrighted materials. Willful infringement of copyright laws by employees is prohibited. The Board, therefore, directs the Superintendent to develop guidelines that ensure compliance with applicable copyright laws and make these available to employees.

The legal and/or insurance protection of the Madera County Office of Education will not be extended to employees who violate the copyright laws.

Any employee who is found in violation of this policy will be subject to disciplinary procedures.

Legal Reference: United State Code, Title 17
P.L. 94-553 Federal Copyright Law of 1976

<http://www.Law.cornell.edu/usc/17/overview.html>

Board Approval: January 9, 1991
October 13, 1998
May 9, 2000

2000 ADMINISTRATIVE COMPLIANCE/APPEALS

2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(a)

The board recognizes that federal law makes it illegal to duplicate copyrighted materials without authorization of the holder of the copyright, except for certain exempt purposes. Severe penalties may be imposed for unauthorized copying or using of audiovisual or printed materials and computer software, unless the copying or using conforms to the "fair use" doctrine.

Under the "fair use" doctrine, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. If duplicating or changing a product is to fall within the bounds of fair use, these four standards must be met for any of the foregoing purposes:

- A. THE PURPOSE AND CHARACTER OF THE USE. The use must be for such purposes as teaching or scholarship and must be nonprofit.
- B. THE NATURE OF THE COPYRIGHTED WORK. Staff may make single copies of the following for use in research, instruction or preparation for teaching: book chapters; articles from periodicals or newspapers; short stories, essays or poems; and charts, graphs, diagrams, drawings, cartoons or pictures from books, periodicals, or newspapers in accordance with these guidelines.
- C. THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED. In most circumstances, copying the whole of a work cannot be considered fair use; copying a small portion may be if these guidelines are followed.
- D. THE EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR VALUE OF THE COPYRIGHTED WORK. If resulting economic loss to the copyright holder can be shown, even making a single copy of certain materials may be an infringement, and making multiple copies presents the danger of greater penalties.

While MCOE encourages its staff to enrich the learning programs by making proper use of supplementary materials, it is the responsibility of the MCOE staff to abide by copyright procedures and obey the requirements of the law. In no circumstances shall it be necessary for MCOE staff to violate copyright requirements in order to perform their duties properly. MCOE cannot be responsible for any violations of the copyright law by its staff.

Any staff member who is uncertain as to whether reproducing or using copyrighted materials complies with the MCOE procedures or is permissible under the law should contact the Library Media Specialist or designee in the MCOE-Instructional Media

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(b)

Center (IMC). The latter will also assist staff in obtaining proper authorization to copy or use protected material when such authorization is required.

Each employee making a reproduction shall first determine whether the copying is permitted by law based on the guidelines below. If the employee is not certain, he/she shall contact the Library Media Specialist or designee in order to ascertain whether the copying falls under the "Fair Use" doctrine. If the request does not fall under "Fair Use", the staff member must request permission to reproduce the material from the copyright holders. (See *Handbook on How to Get Copyright Permission*)

Requests for copyright permission shall include the following information:

1. Title, author(s), editor(s), or publisher, producer(s), or distributor, place and date of publication.
2. Edition, copyright and/or production year.
3. Exact amount of material to be used (i.e., lines, running time, etc.)
4. Reference to the initial contact individual, by name, in the latter if the initial contact was made by phone.
5. Nature of the use (i.e., how many times, when and with whom the material will be Used.
6. Number of copies to be made.
7. How the material will be reproduced.
8. A notice of copyright present on the document to be reproduced. The copyright ownership information includes the copyright notice (©, year of first publication, and the name of the copyright holder).

INSTRUCTION

Staff may make copies of copyrighted materials that fall within the following guidelines. Staff members who fail to follow this procedure may be held personally liable for copyright infringement.

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(c)

Authorized Reproduction and Use of Copyrighted Material in Print (Books and Periodicals)

In preparing for instruction, a teacher may make or have made a single copy of:

- A. A chapter from a book;
- B. An article from a newspaper or periodical;
- C. A short story, short essay or short poem; or
- D. A chart, graph, diagram, drawing cartoon or picture from a book, periodical or newspaper.

A teacher may make multiple copies not exceeding more than one per pupil, for classroom use or discussion if the copying meets the tests of "brevity, spontaneity and cumulative effect" set by the following guidelines. Each copy must include the notice of copyright present in the original work.

A. Brevity

- 1. A complete poem, if less than 250 words and if printed on not more than two pages, may be copied; excerpts from longer poems cannot exceed 250 words;
- 2. Complete articles, stories or essays of less than 2500 words may be copied. Excerpts from prose works of not more than 1000 words or 10% of the work - whichever is smaller - may be copied, but in any event, a minimum of 500 words may be copied.
- 3. Each numerical limit set forth above may be expanded to permit the completion of an unfinished line of a poem or an unfinished prose paragraph;
- 4. One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue may be copied.
- 5. "Special" works cannot be reproduced in full under any circumstances; however, an excerpt of not more than two published pages containing not more than 10% of the words in the text of such special work may be reproduced. What constitutes a "special" work is not clearly defined; however, special works include children's

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(d)

books combining poetry, prose or poetic prose with illustrations and which are less than 2500 words in their entirety.

- B. Spontaneity - Copying should be at the “instance and inspiration” of the individual teacher; and the inspiration and decision to use the work and the moment of its use of maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.
- C. Cumulative Effect - Teachers are limited to using copied material for only one course in the school in which copies are made. No more than one short poem, article, story, essay or two excerpts from the same author may be copied, and no more than three works or excerpts can be copied from a collective work or periodical volume during one class term. Teachers are limited to nine instances of multiple copying for one course during one class term. The numerical limitations set forth above do not apply to current news periodicals, newspapers and current news sections of other periodicals.

Performances by teachers or students of copyrighted dramatic works without authorization from the copyright owner are permitted as part of a teaching activity in a classroom or instructional setting. All other performances require permission from the copyright owner.

Notwithstanding any of the foregoing, the copyright law prohibits using copies to create, replace or substitute for anthologies, compilations or collective works. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. “Consumable” works include: workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publishers’ reprints or periodicals, nor can they repeatedly copy the same item from term-to-term. Copying cannot be directed by a “higher authority”, and students cannot be charged more than actual cost of photocopying.

Teachers may use copyrighted material in overhead or opaque projectors for instructional purposes.

A library may make a single copy (containing the notice of copyright present on the original work) of:

- A. An unpublished work which is in its collection solely for purposes of preservation and security or for deposit for research use in another qualified library or archives.

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(e)

- B. A published work in order to replace it because it is damaged, deteriorated, lost or stolen, provided that an unused replacement cannot be obtained at a fair price.

A library may provide a single copy of copyrighted material to a student or staff member at no more than the actual cost of photocopying. The copy must be limited to one article or a periodical issue or a small part of other material, unless the library finds that the copyrighted work cannot be obtained elsewhere at a fair price. In the latter circumstance, the entire work may be copied. In any case, the copy shall contain the notice of copyright present in the original work and the student or staff member shall be notified that the copy is to be used only for private study, scholarship or research. Any other use may subject the person to liability for copyright infringement and the library shall not make a copy if it has notice of any other use. The foregoing reproduction right shall not apply to musical works, motion pictures or other audiovisual works (other than an audiovisual work dealing with news), or pictorial, graphic or sculptural works (other than pictorial or graphic works published as illustrations, diagrams or similar adjuncts to works of which copies are reproduced hereunder).

At the request of a teacher, copies may be made for reserve use. The same limits apply as for single or multiple copies designated in "Authorized Reproduction and Use of Copyright Material in Print" section of these regulations.

Authorized Reproduction and Use of Copyrighted Music

For academic purposes, other than performance, teachers may make a single copy of an entire performable unit (section), movement, aria, etc., from a printed musical work that is (1) confirmed by the copyright proprietor to be out of print or (2) unavailable except in a larger work, for purposes of preparing instruction.

A teacher may make multiple copies not exceeding one copy per pupil for classroom use of an excerpt of not more than 10% of a printed musical work if it is to be used for academic purposes other than performance, provided that the excerpt does not comprise a part of the whole musical work which would constitute a performable unit such as a selection, movement, or aria. In an emergency, a teacher may make and use replacement copies of printed music for an imminent musical performance when the purchased copies have been lost, destroyed or are otherwise not available, provided that purchased copies shall be substituted in due course.

A teacher may make and retain a single recording of student performances of copyrighted material when it is made for purposes of evaluation or rehearsal.

2000 ADMINISTRATIVE COMPLIANCE/APPEALS

2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(f)

A teacher may make and retain a single copy of excerpts from recordings of copyrighted musical works owned by the school or the individual teacher for use as aural exercises or examination questions.

A teacher may edit or simplify purchased copies of music provided that the fundamental character of the music is not distorted. Lyrics shall not be altered or added if none exist.

Copying cannot be used to create, replace or substitute for anthologies, compilations or collective works; copying of consumable works is prohibited. Copying for the purpose of performance is prohibited, except in the case of an emergency as set forth above, and copying for the purpose of substituting for the purchase of music is prohibited, except as set forth in the first and second paragraphs above. All copies must include the copyright notice appearing on the printed copy.

Performance by teachers or students of copyrighted musical works is permitted without the authorization of the copyright owner as part of a teaching activity in a classroom or instructional setting. The purpose shall be instructional rather than for entertainment.

If the requirements of the foregoing paragraph are not satisfied, performances of nondramatic musical works which are copyrighted are permitted without the authorization of the copyright owner, provided that.

- A. The performance is not for a commercial purpose;
- B. None of the performers, promoters or organizers are compensated; and
- C. (1) There is no direct or indirect admission charge; or (2) admission fees are used for educational or charitable purposes only; provided that the copyright owner has not objected to the performance.

All other musical performances require permission from the copyright owner.

Off-Air Recording of Copyrighted Programs

Television programs transmitted by television stations for reception by the general public without charge (hereinafter referred to as "broadcast programs") may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a school for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of this retention period, all off-air recordings must be erased or destroyed immediately.

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COPYRIGHTED MATERIALS

AR 2310(g)

Off-air recordings may be used once by individual teachers in the course of relevant instructional activities, and repeated once only when instructional reinforcement is necessary in classrooms and similar places devoted to instruction, during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period. "School days" are school session days - not counting weekends, holidays, vacations, examination periods or other scheduled interruptions.

Off-air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each additional copy shall be subject to all provisions governing the original recording.

After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum. Permission must be secured from the publisher before the recording can be used for instructional purposes or any other non-evaluation purpose after the ten (10) day period.

Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

Authorized Reproduction and Use of Video Rentals or Videos Purchased for Home Use

The copyright law is very clear in permitting the showing of motion pictures and other audiovisual materials in a classroom within a nonprofit educational institution as long as it is part of "face-to-face" teaching activities. The use must be part of the instructional program and cannot be shown for recreation or entertainment. Section 110 (1) of the U.S. Copyright Law exempts the motion picture from the public performance rights reserved to the copyright holder.

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(h)

Many retail video rental stores have strict license agreements prohibiting use with large, non-home audiences. These restrictions may also apply to the use of videos purchased for home use. Staff is expected to review and honor these agreements.

The copying or use of video tapes rented from home video tape rental stores or subscription programs transmitted via subscription television cable services, such as HBO or SHOWTIME, is illegal. Such programs are licensed for private/home use only and may not be used in public schools.

Authorized Reproduction and Use of Copyrighted Computer Software and CD-ROM Products

Schools have a valid need for high-quality software at reasonable prices. To assure a fair return to the authors of software programs, the school district shall comply with the copyright laws and any usage agreements that are applicable to the acquisition of software programs.

To this end, the following guidelines shall be in effect:

- A. All copyright laws and license agreements between the vendor and the MCOE shall be observed;
- B. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment, to avoid the installation of privately purchased software on school equipment and to avoid the use of single copy software of CD-ROM products across a network with multiple users unless such use is permitted by the applicable license agreement;
- C. A backup copy shall be purchased for use as a replacement when a program is lost or damaged. If the vendor is not able to supply such, the district shall make a backup program in accordance with the terms of the applicable license agreement or 17 U.S.C. and 117 and attest that the program will be used for replacement purposes only;

Copying Limitations

Circumstances will arise when staff is uncertain whether or not copying is prohibited. In those circumstances, the Library Media Specialist or designee in MCOE-IMC should be contacted. The following prohibitions have been expressly stated in guidelines agreed to by representatives of educators and authors/publishers:

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2300 GENERAL ADMINISTRATIVE COMPLIANCE

COPYRIGHTED MATERIALS

AR 2310(i)

- A. Reproduction of copyrighted material shall not be used to create or substitute for anthologies, compilations or collective works.
- B. Unless permitted by agreement with the publisher and authorized by MCOE action, there shall be no copying from copyrighted consumable materials such as workbooks, exercises, test booklets, answer sheets and the like.
- C. Staff should determine whether specific copyrighted works, or other data or information are subject to a license or contract. Fair use and these regulations shall not preempt or supersede licenses and contractual obligations.
- D. Staff shall not:
 - 1. Use copies to substitute for the purchase of books, periodicals, music recordings, computer software or other copyrighted material except as permitted by MCOE.
 - 2. Copy or use the same item from term-to-term without the copyright owner's permission;
 - 3. Copy or use more than nine instances of multiple copying of protected material for one course in any one term;
 - 4. Copy or use more than one short work or two excerpts from works of the same author in any one term; or
 - 5. Copy or use protected material without including the notice of copyright present in the original work and the following is a satisfactory notice: NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW.

3000- BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUPERINTENDENT POLICY 3510 - SECURITY

Security

SP3510

The Superintendent desires to provide a safe, orderly working environment.

Surveillance Cameras

The Superintendent authorizes the use of surveillance cameras on Madera County Office of Education (MCOE) property and in facilities to ensure the health, welfare, and safety of all staff and students.

Permissible Locations

Surveillance cameras may be used to observe the following locations:

1. Outdoor facilities: such as parking lots, walkways, and points of ingress and egress.
2. Indoor facilities: foyers, lobbies, classrooms, hallways, and other common areas.

Conditionally Permissible Locations

Surveillance cameras may be used to observe the following locations:

1. Work locations and school buses: provided that the following notice is prominently posted in advance of and during the surveillance.

"NOTICE OF SURVEILLANCE CAMERA IN USE. A surveillance camera may be in operation. You have no reasonable expectation of privacy in this area.
2. Classrooms: with the written consent of the principal/program director/designee and the teacher (Education Code 51512). Teacher Consent Form (video) SP3510(a), Substitute Teacher Consent Form (video) SP3510(b)

Impermissible Locations

Video surveillance cameras may not be used to observe any bathroom, shower, locker room, changing area, or classrooms where infants may be breast fed.

Retention and Viewing

Video images from surveillance cameras are not continually monitored but are actively viewed. Recordings are stored for 20 calendar days after the date of

recording or until such later time as the Superintendent or designee determines that it is no longer needed.

Video images from surveillance cameras shall be viewed by authorized MCOE personnel as necessary. MCOE may rely on the images in connection with the enforcement of state law, MCOE policy, and other applicable rules and regulations. Video images may become part of a student's educational record or a staff member's personnel record in accordance with applicable law.

Video recordings that directly relate to a student and are maintained by MCOE pursuant to Education Code 49061 (b) (i.e., beyond the initial 20 days) may become student records and accordingly, a parent/guardian shall be entitled to access to such student records under the following conditions:

1. Parent or legal guardian follows MCOE Policy regarding access to student records
2. Viewing shall occur only at an MCOE site and in the presence of the Superintendent or designee
3. All persons who view a recording shall be identified in a written log (Video Observation Log SP3510(c))

Audio

Under no circumstances shall the MCOE's video surveillance cameras be equipped to record audio or other sound(s).

MCOE facilities, property, and information exist for the benefit of the public. Proper security of MCOE facilities constitutes good stewardship of public resources, thus benefiting the public and furthering the MCOE mission.

Legal Reference:

EDUCATION CODE

*32211 Threatened disruption or interference with classes
32280-32288 School safety plans
35160 Authority of governing boards
35160.1 Broad authority of school districts
38000-38005 Security patrols
49050-49051 Searches by school employees
49060-49079 Student records
51512 Prohibited use of electronic listening or recording device*

GOVERNMENT CODE

6250-6270 California public records act

PENAL CODE

*626-626.10 Disruption of schools
627-627.10 Access to school premises
632. 635. 647(k). 653 Eavesdropping on or recording confidential communications*

CALIFORNIA CONSTITUTION

Article 1, Section 28(c) Right to Safe Schools

Adopted: March 2, 2009