



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 0215

PAGE: 1 OF 3

CATEGORY: School District, Philosophy

EFFECTIVE: 1-29-62

SUBJECT: Liquor Licenses

REVISED: 3-29-2002

A. PURPOSE AND SCOPE

1. To outline administrative procedures for protesting issuance of liquor licenses for premises near schools.

B. LEGAL AND POLICY BASIS

1. **Reference:** Board Policy H-6940; Alcoholic Beverage Control Act (Section 23789, Business and Professions Code).
2. **California State Department of Alcoholic Beverage Control** is specifically authorized to refuse issuance, other than renewal or ownership transfer, of *on-sale* retail licenses for premises located within 600 feet of schools and public playgrounds, measured pursuant to rules of the department.
 - a. **Refusal of off-sale licenses** is not specifically authorized in the Alcoholic Beverage Control Act, but the case of *Weiss v. State Board of Equalization*, 40 Cal.2d 772, establishes that absence of such ruling does not preclude Department of Alcoholic Beverage Control from refusing off-sale licenses for premises within 600 feet of a school.
 - b. **Hearings** are held by the department to consider protests.
3. **Board Policy.** The Board of Education for years has protested issuance or transfer of on-sale or off-sale beer, wine, or liquor licenses for premises within 600 feet of any school in the district.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Office of General Counsel, Office of the Superintendent.
2. **Definitions**
 - a. **Off-sale licenses:** Beverages purchased but *not* consumed on premises.
 - b. **On-sale licenses:** Beverages purchased and consumed on premises.

3. **Department of Alcoholic Beverage Control** refuses, generally speaking, to issue on-sale or off-sale licenses for premises within immediate vicinity of schools and churches where it is shown that issuance of such licenses would be contrary to public welfare and morals. Licenses have been granted, in some cases, in spite of protests. A conditional license can be issued by the department, if an applicant's request restricts hours of sale.

D. IMPLEMENTATION

1. **Principal** immediately notifies General Counsel upon learning of application for liquor license in a location within 600 feet of the school.
2. **General Counsel** originates protest of issuance of license when it appears, from all circumstances of the individual case, that:
 - a. In consultation with school principal, issuance of a license would be contrary to public welfare and morals in the community served by the school.
 - b. There is reasonable probability of the school district prevailing at an Alcoholic Beverage Control hearing conducted as a result of any protest filed by the district.

Nothing herein shall preclude: (a) General Counsel from proposing, as a legal matter, to the superintendent and Board of Education at a public meeting of the board, that appropriate conditions be placed upon an Alcoholic Beverage Control license; and (b) if such conditions are agreed upon by applicant, the Board of Education from accepting such conditions in lieu of ratifying a protest against applicant.

3. **Board of Education** ratifies protest or approves license conditions at a public meeting.
4. **General Counsel**
 - a. **Determines** whether protest should be filed or conditional provisions on the license should be accepted.
 - b. **If conditional provisions** should be accepted, proposes, as a legal matter, acceptance of conditions to the superintendent and Board of Education at a public meeting of the board.

SUBJECT: **Liquor Licenses**

NO: **0215**

PAGE: **3 OF 3**

EFFECTIVE: **1-29-62**

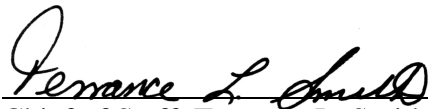
REVISED: **3-29-2002**

- c. **If protest** should be made either because (a) issuance of license would be contrary to public welfare and morals, or (b) statutory time constraints permit no other alternative in conditional license bargaining efforts, submits verified letter of protest to the Department of Alcoholic Beverage Control.
- d. **Sends copy of verified letter** of protest to principal of school located within 600 feet of premises for which license is requested.
- e. **Represents the district** at hearings held by the California State Department of Alcoholic Beverage Control.

E. FORMS AND AUXILIARY REFERENCES

F. REPORTS AND RECORDS

G. APPROVED BY



Chief of Staff, Terrance L. Smith
For the Superintendent of Public Education