



# ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 1710

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CATEGORY: **General Administration, Legal Processes**

EFFECTIVE: **10-1-62**

SUBJECT: **Legal Process Including Subpoenas, Summonses, and Complaints**

REVISED: **2-01-2002**

## A. PURPOSE AND SCOPE

1. To outline administrative procedures for handling receipt of (a) summons and complaint served upon the school district in lawsuits where school district is a defendant, (b) summons and complaint served upon a school district employee, (c) subpoena served upon the school district for the release of records in the custody of the school district, and (d) subpoena served upon school district employee requiring the appearance of the employee in court.
2. **Related Procedure:**  
Employee liability ..... 7180

## B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: B-2700, I-1800; Code of Civil Procedure, Sections 1985-1997; Evidence Code Sections 1560-1566; Education Code Sections 49060 *et seq.*; Government Code Sections 6250, *et seq.*

## 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. **Need for Prompt Action.** It is possible for employees to be served with legal papers that affect the position of the school district. Most of these papers require action by the school district within a very limited period of time; consequently, immediate compliance with this procedure is necessary.
3. **Exclusions.** This procedure does not cover serving of legal process on employees or students directed at them as private citizens and not at, or affecting the school district. It should be noted that only law enforcement officers, not private process servers, may serve legal documents on students.
4. **Process Servers.** Process servers in civil cases may not come on the premises or disrupt programs or activities; they should be told to wait until after work hours. If a law enforcement officer (e.g., sheriff) is the process server, the district generally cooperates in a manner that minimizes disruption or inconvenience. Process servers in criminal cases must be permitted to serve papers.

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#### **D. IMPLEMENTATION**

1. **Service of Summons and Complaint Upon School District as Defendant.** Refer process server to the Office of General Counsel. General Counsel will accept service on behalf of the school district.
2. **Service of Summons and Complaint Upon School District Employee as Defendant**
  - a. If process server wants to personally deliver the summons and complaint to the employee, process server should be advised to serve the documents during the employee's non-work hours.
  - b. If process server requests to leave the summons and complaint at employee's office (i.e., principal's office at school sites), office staff accepts the documents and notes the time and date of service. The summons and complaint then should be delivered to employee at the earliest opportunity.
  - c. An employee served with a summons and complaint who has been sued based on conduct occurring during the course of his/her employment with the school district should immediately contact the Office of General Counsel.
3. **Service of Subpoena Upon School District for Release of Records Without Personal Appearance** (Box 2.b. checked on subpoena)
  - a. **Student Personnel Records.** Process server should be referred to the Placement and Appeal Legal Specialist. The Placement and Appeal Legal Specialist or designee shall serve as custodian of student personnel records; accepts subpoena and release records in manner prescribed by the Evidence Code Sections 1560 and 1561. The Placement and Appeal Legal Specialist, prior to release of records, shall (a) collect the applicable preparation and copying costs; and (b) consult with General Counsel in cases where question exists on whether release of records is proper.
  - b. **Employee Payroll Records.** Process server should be referred to the Employee Services Department, Human Resource Services Division, Administrative Operational Support. Employee Services Director or designee shall serve as custodian of employee payroll records; accepts the subpoena and release records in manner prescribed by Evidence Code Sections 1560 and 1561. Employee Services Director or designee, prior to release of records, shall (a) collect the

applicable preparation and copying costs, and (b) consult with General Counsel in cases where question exists on whether release of records is proper.

- c. **All Other Records.** Process server should be referred to supervisory employee charged with custody or control of the records requested. Supervisory employee accepts service of the subpoena; photocopies requested records; and forwards to General Counsel copies of the records, together with "Declaration of Custodian of Records" (E.1., Attachment) and a statement of clerical time expended to locate and copy records. General Counsel releases copies of records, where required by law, in manner prescribed by Evidence Code Sections 1560 and 1561.
4. **Service of Subpoena for Personal Appearance**
    - a. Process server should be advised to serve subpoena upon the employee to be subpoenaed during employee's non-work hours.
    - b. In all civil cases employee served shall request witness fees at time of service of the subpoena. All witness fees must be endorsed to San Diego Unified School District and remitted to the Accounting Department, Finance Division, Administrative Operational Support, immediately. Mileage expenses may be retained by employee.
    - c. To arrange for a substitute, employee served should promptly notify supervisor of date and time for appearance. Employee served also should promptly contact General Counsel to allow for legal review of subpoena.
  5. **Personal Appearance Subpoenas Served on Principals for Routine Matters** (e.g., Identification of stolen property)
    - a. Follows section D.4.b. through d.
    - b. If the principal wishes to send a designee (e.g., vice principal or school police services officer), calls the attorney (name indicated in upper left-hand corner of the subpoena) for approval. If any difficulty is encountered, General Counsel may be requested to make the call. Also, principal may call attorney who requested the subpoena and ask for "standby notification" to eliminate waiting time.

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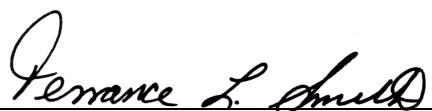
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**E. FORMS AND AUXILIARY REFERENCES**

1. Declaration of Custodian of Records, Attachment

**F. REPORTS AND RECORDS**

**G. APPROVED BY**



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