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Memo

To Board of Education

From Maria Santos, Deputy Superintendent of Instruction, Leadership & Equity-in-Action
Curtiss Sarikey, Associate Superintendent, Family, School and Community Partnerships

Board Meeting Date June 11, 2014

Subject Amendments to Board Policy and Administrative Regulations 5141.25 (Availability of Condoms)

Action Requested Approval of updates to the Oakland Unified School District Board Policy and Administrative Regulations 5141.25 (Availability of Condoms)

Background Our current policy allows for condoms to be distributed at high schools but does not explicitly authorize condom distribution at middle schools. The revised policy authorizes the distribution of condoms to sexually-active middle school students in limited circumstances.

Data from the California Healthy Kids Survey demonstrates that a concerning percentage of our middle school students are or have been sexually active. Initiation of sexual activity before age 14 is associated with adverse childhood experiences, increased exposure to trauma and sexual exploitation, and can lead to poor health outcomes in adolescence and adulthood. Allowing health care providers to make condoms available to at-risk youth in middle schools will align OUSD health care practices with state law and help protect some of our most vulnerable students.

Discussion The major areas of revision include the following:

- Condoms may be provided to middle school students but only by licensed health care professionals, or clinical health educators supervised by licensed health care professionals, and only in conjunction with a comprehensive psychosocial assessment by a qualified healthcare professional to identify risks, including trauma and sexual exploitation, and to connect students to needed resources and support.
- Condoms may be provided in high schools through licensed health care professionals, health educators, trained staff, and community based organizations that visit OUSD high schools to provide classroom or community-based health education and resources.

The modifications have been reviewed and vetted by the General Counsel.

The changes to the policy are shown on the attachment.

Recommendation Approval of modifications to the Oakland Unified School District Board Policies and



Administrative Regulations 5141.25 and 5141.25

Fiscal Impact

No fiscal impact

Attachments

- Board Policies and Administrative Regulations 5141.25 and 5141.25

OAKLAND UNIFIED SCHOOL DISTRICT
Board Policy

BP 5141.25
Students

Availability of Condoms

The ~~Governing~~ Board strongly encourages students to make responsible choices around their sexual health. Abstinence ~~abstain from sexual activity~~ is the safest and only 100% effective way to prevent pregnancy, Human Immunodeficiency Virus (HIV), and other sexually transmitted infections. However, ~~†The Board also believes it has a responsibility to take steps to prevent pregnancy, among minors, Human Immunodeficiency Virus (HIV) infection and Acquired Immune Deficiency Syndrome (AIDS), and other sexually transmitted diseases~~infections among students who do not abstain from sexual activity. Prevention of sexually transmitted infections and unintended pregnancies leads to increased attendance, graduation rates, and attainment of higher education.

(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6142.1 - Family Life/Sex Education)
(cf. 6142.2 - AIDS Prevention Instruction)

~~Believing all students deserve to be safe and healthy, the Board has taken steps to prevent the spread of HIV and other sexually transmitted diseases by implementing a condom availability program as part of an HIV/AIDS education program for high school students.~~

Condoms, when properly used, can reduce the incidence of pregnancy and transmission of HIV/AIDS and other sexually transmitted ~~diseases~~infections. The Board therefore finds it appropriate for condoms to be available to high school students and, in certain limited circumstances, to middle school students.

According to California State law, young people ages ~~allows students 12 years or~~ older can consent to have access to the following health services with or without parental consent: (California Family Code: 6920, 6926):
~~†~~Diagnosis and treatment of sexually transmitted ~~diseases~~infections, and minors of any age can consent to; pregnancy testing, contraceptives and

~~prenatal care. Minors (12 year of age or older) using the District's school-based clinics or nurse's offices will be offered confidential services as permitted by state law. While parent involvement is preferred and encouraged, California State Law requires adolescent confidentiality to be maintained, the minor's preference is respected, except in the following instances: Emergency situations when danger to life is imminent; threat of suicide; threat of homicide; and issues of physical, sexual or emotional abuse. District employees, including but not limited to health care professionals, are mandated reporters and will adhere to Child Protective Services reporting guidelines.~~

~~Only licensed health care professionals authorized by the Superintendent or designee may provide sensitive services to individual students.~~

Condom Availability in High School

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~~The District shall take steps to prevent the spread of HIV and other sexually transmitted infections by making condoms available to high school students in conjunction with sexual health information as specified in Administrative Regulation 5141.25.~~

~~The superintendent or designee shall notify parents/guardians annually that they may exclude their children from all or part of a comprehensive sexual health education.~~

~~(cf. 5141.6 – Student Health and Social Services)~~

~~The Superintendent or designee shall notify parents/guardians annually that they may exclude their children from the Family Life (Sex Education) program. Parents/guardians who choose to exclude their children shall be offered information and educational materials designed to help them communicate effectively with their children about pregnancy prevention and sexually transmitted diseases.~~

Condom Availability in Middle Schools

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~~Initiation of sexual activity before age 14 is associated with adverse childhood experiences, increased exposure to trauma and sexual exploitation, and can lead to poor health outcomes in adolescence and adulthood. Making condoms available to sexually active middle school aged youth reduces potential risks but should only be provided in conjunction with an appropriate psychosocial assessment to identify risk factors and to~~

connect students to needed resources and supports. Condoms will only be provided to middle school students by licensed health care professionals or clinical health educators working under the supervision of licensed health care professionals.

~~Students shall be advised not to engage in unlawful sexual activity and shall receive information explaining that Penal Code 261.5 prohibits a male of any age from having sexual intercourse with a female under 18 to whom he is not married.~~

~~The Superintendent or designee may provide addresses and telephone numbers of resources that provide further information and counseling regarding HIV testing, AIDS and other sexually transmitted diseases, and pregnancy prevention.~~

(cf. 5141.6 - Student Health and Social Services)

(cf. 1020 - Youth Services)

Legal Reference:

EDUCATION CODE

49062 Records; establishment, maintenance and destruction

49069 Absolute right to access

49422 Supervision of health and physical development of pupils

51201.5 AIDS prevention instruction

FAMILY CODE

6925 Prevention or treatment of pregnancy

6926 California Family Code

6920 California Family Code

HEALTH AND SAFETY CODE

121255 Further findings and declarations

PENAL CODE

261.5 Unlawful sexual intercourse with female under age 18

286 Sodomy

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

UNITED STATES CODE, TITLE 20

7906 Prohibition against use of federal funds for contraceptive distribution

COURT DECISIONS

People v. Beeman (1984) 35 Cal. 3d 547, 561

Management Resources:

WEB SITES

CDE: <http://www.cde.ca.gov>

California Healthy Kids Resource Center: <http://www.hkresources.org>

California Department of Health Services: <http://www.dhs.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

National Association of State Boards of Education: <http://www.nasbe.org>

| 7/14/04;—6/29/05A; 6/11/14

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 5141.25

Students

Availability of Condoms

The Board strongly encourages students to make responsible choices around their sexual health. Abstinence from sexual activity is the safest and only 100% effective way to prevent pregnancy, Human Immunodeficiency Virus (HIV), and other sexually transmitted infections. The Board believes it has a responsibility to take steps to prevent pregnancy, HIV, and other sexually transmitted infections among students who do not abstain from sexual activity. Prevention of sexually transmitted infections and unintended pregnancies leads to increased attendance, graduation rates, and attainment of higher education.

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6142.1 - Family Life/Sex Education)

(cf. 6142.2 - AIDS Prevention Instruction)

Condoms, when properly used, can reduce the incidence of pregnancy and transmission of HIV and other sexually transmitted infections. The Board therefore finds it appropriate for condoms to be available to high school students and, in certain limited circumstances, to middle school students.

According to California law, young people ages 12 and older can consent to diagnosis and treatment of sexually transmitted infections, and minors of any age can consent to pregnancy testing, contraceptives and prenatal care. While parent involvement is preferred and encouraged, California State law requires adolescent confidentiality to be maintained except in the following instances: Emergency situations when danger to life is imminent; threat of suicide; threat of homicide; and issues of physical, sexual or emotional abuse. District employees, including but not limited to health care professionals, are mandated reporters and will adhere to Child Protective Services reporting guidelines.

Condom Availability in High Schools

The District shall take steps to prevent the spread of HIV and other sexually transmitted infections by making condoms available to high school students in conjunction with sexual health information as specified in Administrative Regulation 5141.25.

The Superintendent or designee shall notify parents/guardians annually that they may exclude their children from all or part of a comprehensive sexual health education.

Condom Availability in Middle Schools

Initiation of sexual activity before age 14 is associated with adverse childhood experiences, increased exposure to trauma and sexual exploitation, and can lead to poor health outcomes in adolescence and adulthood. Making condoms available to sexually active middle school aged youth reduces potential risks but should only be provided in conjunction with an appropriate psychosocial assessment to identify risk factors and to connect students to needed resources and supports.

Condoms will only be provided to middle school students by licensed health care professionals or clinical health educators working under the supervision of licensed health care professionals.

(cf. 5141.6 - Student Health and Social Services)

(cf. 1020 - Youth Services)

Legal Reference:

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National Association of State Boards of Education: <http://www.nasbe.org>

7/14/04; 6/29/05; 6/11/14

OAKLAND UNIFIED SCHOOL DISTRICT

Administrative Regulation

AR 5141.25

Students

Availability of Condoms

~~1.~~ As permitted by Board Policy 5141.25 (Availability of Condoms), condoms may be made available to high school students and, in certain limited circumstances, to middle school students.

~~2.1.~~

2. Condoms may be provided in high schools through licensed health care professionals, health educators, trained staff, or community-based organizations that visit OUSD high schools to provide classroom or community-based health education and resources. If requested, students will be referred for follow-up individual counseling with a qualified health care provider.

3. Condoms may only be provided to middle school students by licensed health care professionals, or clinical health educators supervised by licensed health care professionals, and only in conjunction with a comprehensive psychosocial assessment by a qualified health care professional to identify risks, including trauma and sexual exploitation, and to connect students to needed resources and support.

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~~1.1.~~ In compliance with the Oakland Unified School District's Board-adopted Availability of Condoms Policy, School Based Health Clinics may make condoms and other contraceptive methods available along with other health services provided to students. Students who receive condoms from School Based Health Clinics will receive appropriate instruction including the following topics. Condoms should be provided in conjunction with appropriate sexual health information about:

a. Abstinence--the safest and only 100% effective choice in preventing pregnancy, HIV and other sexually transmitted diseases.

b. Proper condom use.

~~b.c.~~ Risks of sexual activity.

~~b.d.~~ Sexually transmitted diseases, symptoms, and treatment.

e. Influence of alcohol and other drugs on decision making and behavior.

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b.f. Choice in sexual decision making and the right to change one's mind.

e.g. Healthy relationships and communication.

d. Risks of sexual activity.

e. Sexually transmitted diseases, symptoms, and treatment.

f. Influence of alcohol and other drugs on decision making and behavior.

g. Proper condom use.

h. Unlawful sexual activity for minors; health service rights and access laws.

i. Community resources for health care.

5. Community partners that provide health services at OUSD schools must coordinate their efforts through the Health & Wellness Unit of the Family, School and Community Partnerships Department. This includes one-time as well as ongoing delivery of services to students. See BP 5030 (Wellness).

2. If requested by the student, a follow-up individual counseling session clarifying the above will be provided.

3. Community based organizations that visit OUSD high schools to provide education on the topics listed above may be permitted to make condoms available to students upon request.

4. Each high school may develop its own condom implementation plan/procedures based on the guidelines set forth in this policy. Each school site plan/procedure must be approved by the Deputy Superintendent or designee before actual implementation. School Condom Availability Plans shall be kept on file in the Health Education office.

5. 6. Students will not be charged for condoms. Funding for condoms will be outside of school and general funds. The district's Health Education office and Wellness Unit will work with schools to identify resources for this.

6. Any trained professional furnishing condoms and/or providing related education shall refrain from encouraging sexual activity among or with minors.

7. Students will be given information on the proper use of condoms and on available community resources.

8. 7. No record of names of students receiving condoms shall be kept. Information about individual students' access to condoms will not be entered into the student

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information system; health care professionals will maintain records in accordance with all applicable federal and state laws and regulations. Such records shall be confidential to the extent required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules, 45 C.F.R. Parts 160, 162 and 164; California Civil Code §§ 56 et seq.; California Welfare & Institutions Code §§ 5328 et seq.; and other state law.

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OAKLAND UNIFIED SCHOOL DISTRICT

Administrative Regulation

AR 5141.25

Students

Availability of Condoms

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3. Condoms may only be provided to middle school students by licensed health care professionals, or clinical health educators supervised by licensed health care professionals, and only in conjunction with a comprehensive psychosocial assessment by a qualified health care professional to identify risks, including trauma and sexual exploitation, and to connect students to needed resources and support.
4. Condoms should be provided in conjunction with appropriate sexual health information, including information about:
 - a. Abstinence -- the safest and only 100% effective choice in preventing pregnancy, Human Immunodeficiency Virus (HIV) and other sexually transmitted infections.
 - b. Proper condom use.
 - c. Risks of sexual activity.
 - d. Sexually transmitted diseases, symptoms, and treatment.
 - e. Influence of alcohol and other drugs on decision making and behavior.
 - f. Choice in sexual decision making and the right to change one's mind.
 - g. Healthy relationships and communication.
5. Community partners that provide health services at OUSD schools must coordinate their efforts through the Health & Wellness Unit of the Family, School and Community Partnerships Department. This includes one-time as well as ongoing delivery of services to students. See BP 5030 (Wellness).

6. Students will not be charged for condoms. Funding for condoms will be outside of school and general funds. The district's Health and Wellness Unit will work with schools to identify resources for this.
7. Information about individual students' access to condoms will not be entered into the student information system; health care professionals will maintain records in accordance with all applicable federal and state laws and regulations. Such records shall be confidential to the extent required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules, 45 C.F.R. Parts 160, 162 and 164; California Civil Code §§ 56 et seq.; California Welfare & Institutions Code §§ 5328 et seq.; and other state law.

6/29/05; 6/11/14