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# Memo

**To** Board of Education

**From** Joanna Powell, Staff Attorney  
Paris Pryor, Program Manager for Health Services  
Jennifer Blake, Director of Special Education

**Board Meeting Date** 3/25/2020

**Subject** Amendment – Board Policy BP 5141.21 – Administering Medication  
And Monitoring Health Conditions

**Action Requested and Recommendation** Approval of revisions to the Oakland Unified School District’s BP 5141.21, Administering Medication And Monitoring Health Conditions

**Background and Discussion** Effective January 1, 2020, the California Legislature added Section 49414.1 to the Education Code. Section 49414.1 authorizes the governing boards of school districts to adopt policies allowing administration of medicinal cannabis (excluding products ingested through smoking or vaping) in schools. A policy adopted pursuant to this authorization must include the following limitations:

- Require parents to provide a valid written medical recommendation for medicinal cannabis for the school to keep on file.
- Require parents themselves (rather than school staff) to administer medical cannabis to students.
- Prohibit medicinal cannabis from being stored on campus and require the parent to remove the medicinal cannabis after each use.
- Indicate that the medicinal cannabis cannot be administered in a way that is disruptive or exposes other students to the medicinal cannabis.

Several District students have medical recommendations for medicinal cannabis. Because the District has not adopted a policy pursuant to Section 49414.1, parents of students with medical cannabis recommendations must check them out of school in order to administer the medical cannabis elsewhere. This is administratively difficult and results in lost learning time for the students.



CSBA has amended its model BP 5141.21 (Administering Medication And Monitoring Health Conditions) to include sample language for school districts that wish to adopt a policy pursuant to Education Code section 49414.1. The proposed BP 5141.21 includes this language, with revisions to the existing policy shown in red.

**Fiscal Impact**

No direct funding implications

**Attachments**

Education Code Section 49414.1  
BP 5141.21 – Redlined  
BP 5141.21 – Clean

# OAKLAND UNIFIED SCHOOL DISTRICT

## Board Policy

### BP 5141.21 - Administering Medication and Monitoring Health Conditions Students

The Governing Board recognizes that students may need to take prescribed medication during the school day in order to be able to attend school without jeopardizing their health.

When the district has received written statements from the student's physician and parent/guardian, designated personnel shall assist the student in taking the medication. In addition, upon written request, designated personnel may assist the student in monitoring, testing or other treatment of an existing medical condition. (Education Code 49423)

(cf. 3530 - Risk Management/Insurance)  
(cf. 5141.24 - Specialized Health Care Services)

Upon written request by the parent/guardian and with the approval of the student's physician, a student with an existing medical condition that requires frequent monitoring, testing or treatment may be allowed to self administer this service. The student shall observe universal precautions in the handling of blood and bodily fluids.

(cf. 4119.43 - Universal Precautions)  
(cf. 5141.23 - Infectious Disease Prevention)

### Anaphylactic Injections

The Board recognizes that some students have allergies of such severity that they may require an emergency anaphylactic injection during the course of the school day. Parents/guardians who are aware of this foreseeable need may ask the district to provide such injections in accordance with administrative regulations.

School staff who may be required to administer anaphylactic injections shall receive training from qualified medical personnel. They will be authorized to administer the injections in accordance with administrative regulations and will be afforded appropriate liability protection.

(cf. 5141 - Health Care and Emergencies)

### Medicinal Cannabis

The parent/guardian of a student who is a qualified patient pursuant to Health and Safety Code 11362.7-11362.85 may administer medicinal cannabis, excluding medicinal cannabis or cannabis products in a smokeable or vapeable form, to the student at a school site. School personnel are not authorized to administer medicinal cannabis to a student. (Education Code 49414.1)

Before administering medicinal cannabis at a school site, the parent/guardian shall provide to the

principal or designee a valid written medical recommendation for the student to be given medicinal cannabis, which shall be kept on file at the school. The parent/guardian shall sign in at the school site before administering the medication, and shall not administer the medication in a manner that disrupts the educational environment or exposes other students. After the parent/guardian administers the medication, the parent/guardian shall remove any remaining medicinal cannabis from the school site. (Education Code 49414.1)

Legal Reference:

EDUCATION CODES:

49407 Liability for treatment

49408 Emergency information

49414.1 Administration of medicinal cannabis; definitions; policy

49423 Administration of prescribed medication for student

49423.5 Specialized health care services

49426 School nurses

49480 Continuing medication regimen; notice

BUSINESS AND PROFESSIONS CODES:

2700-2837 Nursing, especially:

2726 Authority not conferred

2727 Exceptions in general

7/14/04; 9/11/13A; 3/25/20A

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 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

West's Annotated California Codes  
Education Code (Refs & Annos)  
Title 2. Elementary and Secondary Education (Refs & Annos)  
Division 4. Instruction and Services (Refs & Annos)  
Part 27. Pupils (Refs & Annos)  
Chapter 9. Pupil and Personnel Health (Refs & Annos)  
Article 1. General Powers--School Boards (Refs & Annos)

West's Ann.Cal.Educ.Code § 49414.1

§ 49414.1. Administration of medicinal cannabis; definitions; policy

Effective: January 1, 2020

Currentness

(a) For purposes of this section, the following apply:

(1) “Cannabis” has the same meaning as in [Section 11018 of the Health and Safety Code](#). “Cannabis” includes cannabis products.

(2) “Cannabis products” has the same meaning as in [Section 11018.1 of the Health and Safety Code](#).

(3) “Medicinal cannabis” excludes medicinal cannabis or cannabis products in a smokeable or vapeable form.

(b) Notwithstanding [Sections 11357 and 11361 of the Health and Safety Code](#), the governing board of a school district, a county board of education, or the governing body of a charter school maintaining kindergarten or any of grades 1 to 12, inclusive, may adopt, at a regularly scheduled meeting of the governing board or body, a policy that allows a parent or guardian of a pupil to possess and administer to the pupil who is a qualified patient pursuant to [Article 2.5 \(commencing with Section 11362.7\)](#) of Chapter 6 of Division 10 of the Health and Safety Code medicinal cannabis at a schoolsite.

(c) The policy shall include, at a minimum, all of the following elements:

(1) The parent or guardian shall not administer the medicinal cannabis in a manner that disrupts the educational environment or exposes other pupils.

(2) After the parent or guardian administers the medicinal cannabis, the parent or guardian shall remove any remaining medicinal cannabis from the schoolsite.

(3) The parent or guardian shall sign in at the schoolsite before administering the medicinal cannabis.

(4) Before administering the medicinal cannabis, the parent or guardian shall provide to an employee of the school a valid written medical recommendation for medicinal cannabis for the pupil to be kept on file at the school.

(d) For purposes of confidentiality and disclosure, pupil records collected in accordance with a policy adopted pursuant to subdivision (b) for the purpose of administering medicinal cannabis to a pupil shall be treated as medical records and shall be subject to all provisions of state and federal law that govern the confidentiality and disclosure of medical records.

(e) The governing board of a school district, a county board of education, or the governing body of a charter school that adopts a policy pursuant to subdivision (b) may amend or rescind the policy at a regularly scheduled meeting of the governing board or body for any reason, including, but not limited to, if the school district, county office of education, or charter school is at risk of, or has lost, federal funding as a result of the policy.

(f) The governing board of a school district, a county board of education, or the governing body of a charter school that adopts a policy pursuant to subdivision (b) may amend or rescind the policy at a special meeting in compliance with [Section 54956 of the Government Code](#) if both of the following conditions are met:

(1) Exigent circumstances necessitate an immediate change to the policy adopted pursuant to subdivision (b).

(2) At the meeting the governing board or body will address the intent to amend or rescind the policy adopted pursuant to subdivision (b).

(g) Nothing in this section requires the staff of a school district, county office of education, or charter school to administer medicinal cannabis.

**Credits**

(Added by [Stats.2019, c. 699 \(S.B.223\)](#), § 2, eff. Jan. 1, 2020.)

West's Ann. Cal. Educ. Code § 49414.1, CA EDUC § 49414.1  
Current with urgency legislation through Ch. 1 of 2020 Reg.Sess