

# Golden Gate University School of Law

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## Resolution 10-03-2016, to require School Swimming Pool Safety Plans.pdf

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## RESOLUTION 10-03-2016

### DIGEST

#### Education: K-12 swimming pool safety plans

Amends Education Code section 32282 to require K-12 schools with pools to develop a safety plan.

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Education Code section 32282 to read as follows:

#### §32282

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A school district or county office of education may work with the Office of Emergency Services and the Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The school district or county office of education shall cooperate with the public agency in furnishing and maintaining the services as the school district or county office of education may deem necessary to meet the needs of the community.

34 (C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an  
35 act listed in subdivision (c) of Section 48915 and other school-designated serious acts which  
36 would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to  
37 Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

38 (D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

39 (E) A discrimination and harassment policy consistent with the prohibition against  
40 discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

41 (F) The provisions of any schoolwide dress code, pursuant to Section 35183, that  
42 prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a  
43 dress code. For those purposes, the comprehensive school safety plan shall define "gang-related  
44 apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus,  
45 reasonably could be determined to threaten the health and safety of the school environment. Any  
46 schoolwide dress code established pursuant to this section and Section 35183 shall be enforced  
47 on the school campus and at any school-sponsored activity by the principal of the school or the  
48 person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall  
49 not be considered a protected form of speech pursuant to Section 48950.

50 (G) Procedures for safe ingress and egress of pupils, parents, and school employees to  
51 and from school.

52 (H) A safe and orderly environment conducive to learning at the school.

53 (I) The rules and procedures on school discipline adopted pursuant to Sections 35291 and  
54 35291.5.

55 (J) For each school with a swimming pool on site, a site specific swimming pool safety  
56 plan. The swimming pool safety plan shall include: 1) a list of the current safety course  
57 certifications held by the supervisors, such as: "Lifesaving," "CPR with Automated External  
58 Defibrillator (AED)," or "Water Safety"; 2) a set of student behavior rules; and 3) detailed  
59 emergency response procedures, including: reacting to emergencies, injuries and other incidents;  
60 providing first aid; summoning help; and the location of the nearest landline phone.

61 (b) It is the intent of the Legislature that schools develop comprehensive school safety  
62 plans using existing resources, including the materials and services of the partnership, pursuant  
63 to this chapter. It is also the intent of the Legislature that schools use the handbook developed  
64 and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A  
65 Planning Guide for Action" in conjunction with developing their plan for school safety.

66 (c) Each schoolsite council or school safety planning committee in developing and  
67 updating a comprehensive school safety plan shall, where practical, consult, cooperate, and  
68 coordinate with other schoolsite councils or school safety planning committees.

69 (d) The comprehensive school safety plan may be evaluated and amended, as needed, by  
70 the school safety planning committee, but shall be evaluated at least once a year, to ensure that  
71 the comprehensive school safety plan is properly implemented. An updated file of all safety-  
72 related plans and materials shall be readily available for inspection by the public.

73 (e) As comprehensive school safety plans are reviewed and updated, the Legislature  
74 encourages all plans, to the extent that resources are available, to include policies and procedures  
75 aimed at the prevention of bullying.

76 (f) The comprehensive school safety plan, as written and updated by the schoolsite  
77 council or school safety planning committee, shall be submitted for approval under subdivision  
78 (a) of Section 32288.

(Proposed new language underlined; language to be deleted stricken)

**PROPOSER:** Bar Association of San Francisco

## **STATEMENT OF REASONS**

The Problem: Schools with pools are not required to provide lifeguard service. Unfortunately, several students have drowned or have nearly-drowned during swimming PE classes at K-12 schools. For example: 14-year-old Cesar Urena drowned at La Quinta High School in September, 2007, and 17-year-old John Erlanson drowned at Atascadero High School in May 2008. In addition, 14-year-old Jerry Pham nearly-drowned at Milpitas High School in October 2007, and a 14 year-old male student nearly-drowned at Poway High School in October 2010. Although lifeguards were not required, these student deaths and near-deaths may have been prevented if every school with a swimming pool had established a site-specific safety plan ahead of time.

California Education Code § 32282 sets out the requirements for “School Safety Plans,” and its goal is for every school to identify “appropriate strategies and programs that will provide or maintain a high level of school safety.” However, section 32282 does not contain an express requirement for each K-12 school with a swimming pool to create a site-specific swimming pool safety plan. As a result, many K-12 schools with swimming pools do not have site-specific swimming pool safety plans.

The Solution: For example, New York already requires every K-12 school with a swimming pool to develop and to implement a written safety plan. NY Sanitary Code §§ 6-1.23(c) & 6-1.5 (no exemption for K-12 schools).

Lifeguard service provides the highest level of safety. However, California allows an exception for K-12 schools with swimming pools – to not provide lifeguard service. As a result, K-12 schools with swimming pools are only required to provide the safety equipment listed in 22 CCR § 65540. The equipment requirements include a lifesaving ring, rescue poles, a telephone, and a backboard. Since K-12 schools with swimming pools do not provide certified lifeguards, then each of them should at least have a safety plan that describes the additional safety measures that are being taken.

Education Code §32282 established the requirements for every K-12 school’s “comprehensive” safety plan. As a result, express requirements for K-12 swimming pool safety plans should be added to the list.

## **IMPACT STATEMENT**

This proposed resolution does not affect any other law, statute or rule.

## **CURRENT OR PRIOR RELATED LEGISLATION**

CA Health & Safety Code §116043

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