

**WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT**

**Board Policy No. 5019: VANDALISM/FAILURE TO RETURN DISTRICT PROPERTY**

- A. It is the policy of the Board to seek money damages from any individual, or the parent or guardian of a minor, in the amount of the damage for any act of vandalism committed or loss caused by that individual.
- B. Every employee of this District shall report all damage to or loss of school property to the Superintendent or designee immediately after such damage or loss is discovered.
- C. The Superintendent or designee shall conduct an investigation of any instance of loss or damage to school property. Such investigation shall be carried out in cooperation with law enforcement officials when appropriate.
- D. The Superintendent is authorized to offer a reward in any amount the Superintendent deems appropriate for information leading to the identification and apprehension of any person who damages or removes District property. Such reward shall not exceed the amount of One Thousand Dollars (\$1,000.00). Rewards in excess of \$1,000.00 must be authorized in advance by the Board. Any person who has willfully damaged or removed District property shall be liable for the amount of any reward paid pursuant to this section and if such person is a minor, the parent or guardian shall also be liable for the amount of the reward. The reward shall be paid to the first person who provides sufficient information that leads to the identification and apprehension of the person or persons responsible for the damage or loss. If more than one informant is needed to identify the person(s) responsible, the reward shall be divided equally among the informants. The Superintendent will determine who is entitled to the reward and pay it after such identification and apprehension. The identity of the informant shall be considered confidential, and it will not be made public by the District unless required by law.
- E. On completion of the investigation, identification of the person causing damage to or loss of school property, and determination of the cost of repair or replacement, the Superintendent and the District's legal counsel will take appropriate steps and legal action to recover such damages. The Superintendent's designee shall make a written demand on the individual, or the parent/guardian, in the amount of the damage for any act of vandalism or loss committed by that individual. If the damage is covered by an insurance policy and, if time permits, the Superintendent or his designee shall attempt to recover the damage prior to filing a claim with the insurance carrier. Otherwise, the Superintendent will obtain a subrogation agreement from the carrier and proceed to recover the damages as above provided.
- F. The parent or guardian of a minor shall be liable for all damages caused by: (1) A minor's willful misconduct that results in injury or death to any pupil or any person employed by

or performing voluntary services for the District; and (2) A minor who willfully cuts, defaces or otherwise injures, in any way, the real or personal property of the District, or the personal property of any school employee. The liability of the parent or guardian shall not exceed \$10,000.00 or the maximum allowed by law, whichever is greater. The parent or guardian of a minor shall be liable to the District for the amount of any reward not exceeding \$10,000.00, or the amount allowed by law, whichever is greater.

- G. Any pupil, or the parent/guardian of any minor pupil, shall be held liable for all property belonging to the District or a District employee that has been damaged, destroyed, stolen or lent and not returned upon demand. After affording the pupil his/her due process rights, the District may withhold the grades, diploma, and transcripts of the pupil responsible for the vandalism or theft until the pupil or the pupil's parent/guardian has paid for the damages.
1. A pupil shall be entitled to a hearing to determine whether the grades, diploma, and/or transcripts may be withheld. Such a hearing should be held within thirty (30) school days of the date the demand is made for return of property belonging to the District or District employee or for payment of damaged, destroyed or stolen property of the District or of a District employee. The pupil shall be entitled to at least one postponement for a period of not more than thirty (30) calendar days. Thereafter, any additional postponement may be granted at the discretion of the Board.
  2. Written notice of the hearing shall be forwarded to the pupil at least ten (10) calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the withholding of grades, diploma, and/or transcripts is based; a copy of the disciplinary rules of the District which relate to the alleged violation; and the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel; to inspect and obtain copies of all documents to be used at the hearing; to confront and question all witnesses who testify at the hearing; to question all other evidence presented; and to present oral and documentary evidence on the pupil's behalf, including witnesses.
  3. The Board or a designated administrative panel appointed by the Board shall conduct a hearing to consider the withholding of grades, diploma and/or transcripts of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five (5) days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the hearing is conducted in a closed or public session, the Board may meet in closed session for the purpose of deliberating and determining if the grades, diploma and/or transcripts should be withheld.

If the Board or administrative panel appointed under subdivision 4 below to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil shall also be allowed to attend the closed deliberations.

4. In lieu of conducting the hearing itself, the Board may appoint an impartial administrative panel of three or more certificated persons, none of whom shall be members of the Board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this provision.
5. If the Board appoints an impartial administrative panel, within three school days following the hearing, the administrative panel shall determine whether to recommend to the Board the withholding of grades, diploma and/or transcripts of the pupil.
6. If the administrative panel recommends the withholding of grades, diploma and/or transcripts, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the Board accepts the recommendation calling for the withholding, acceptance shall be based either upon a review of the findings of fact and upon the results of any supplementary hearing conducted pursuant to this section that the Board may order.
7. The decision of the Board to withhold the grades, diploma, and/or transcripts shall be based upon substantial evidence relevant to the charges adduced at the hearing or hearings. Except as provided in this section, no evidence to withhold the grades, diploma and/or transcripts shall be based solely upon hearsay evidence. The Board or administrative panel may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Board or the administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.
8. A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
9. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon

which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the Board to withhold the grades, diploma and/or transcripts shall be supported by substantial evidence showing that the pupil willfully cut, defaced or otherwise injured the real or personal property of the District or the personal property of a District employee, or willfully failed to return on demand the property of the District or a District employee that was loaned to the pupil.

10. A decision of the Board whether to withhold the grades, diploma and/or transcripts shall be made within ten (10) school days following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by an administrative panel, or if the Board does not meet on a weekly basis, the Board shall make its decision within forty (40) school days after the demand for payment was made on the pupil, unless the pupil requests in writing that the decision be postponed.
11. When the minor and parent are unable to pay for any damages or the cost of non-returned items (upon a showing by certification of the parent/guardian that he/she cannot reasonably afford the cost), the District shall provide a program of voluntary work for the minor. Upon completion of the work, the pupil's grades, diploma and/or transcripts shall be released.
12. Any pupil of the District who commits an act of vandalism shall also be subject to disciplinary action by the District.

Legal Reference:

Education Code section 48904, 48904.3  
California Code of Regulations, Title 5 section 305  
Civil Code section 1714.1  
Government Code section 53069.5

Date Policy Adopted By The Board: August 22, 1989 (formerly B.P. 5019)

Date Policy Revised By The Board: November 8, 1994

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