

LEGAL PROCESS INCLUDING SUBPOENAS, SUMMONSES, AND COMPLAINTS

This Administrative Regulation outlines handling receipt of:

1. Summons and complaint served upon the school district in lawsuits where school district is a defendant
2. Summons and complaint served upon a school district employee
3. Subpoena served upon the school district for the release of records in the custody of the school district
4. Subpoena served upon school district employee requiring the appearance of the employee in court

General

1. Need for Prompt Action. Employees may be served with legal papers that affect the position of the school district. Many of these papers require action by the school district within a very limited period of time; consequently, immediate compliance with this procedure is necessary.
2. Exclusions. This regulation does not cover serving of legal process on district officials, employees or students directed at them as individuals 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.
3. 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.

Implementation

1. Service of Summons and Complaint Upon School District as Defendant. Refer process server to Legal Services which will accept service on behalf of the school district.
2. Service of Summons and Complaint Upon School District Employee or Official as Defendant
 - a. If process server attempts or requests to personally deliver the summons and complaint to the district employee or official, process server should be advised to serve the documents during the employee's or official's non-work hours.

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- b. If process server requests to leave the summons and complaint at employee's or official'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 or official at the earliest opportunity.
 - c. An employee or official 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 Legal Services and may submit a Request for Representation.
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 District Legal Services office as custodian of student personnel records; accepts subpoena and releases records in manner prescribed by the Evidence Code sections 1560 and 1561.
 - b. Employee Payroll Records. Process server should be referred to the District Legal Services as custodian of employee payroll records; accepts the subpoena and releases records in manner prescribed by Evidence Code sections 1560 and 1561.
 - c. All Other Records. Process server should be referred to supervisory employee charged with custody or control of the records requested. Supervisory employee shall accept service of the subpoena and consult with Legal Services regarding release of the records. After consultation with Legal Services, the supervisory employee shall release 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 or official 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 Finance Division. Mileage expenses may be retained by employee.

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- c. To arrange for a substitute, employee served should promptly notify supervisor of date and time for appearance. In the case of a subpoena in a matter relating to his or her official capacity, employee or official served also should promptly contact Legal Services to allow for legal review of subpoena.
5. Personal Appearance Subpoenas Served on Principals for Routine Matters (e.g., identification of stolen property)
- a. If the principal wishes to send a designee (e.g., vice principal or school police services officer), he/she should call the attorney (name indicated in upper left-hand corner of the subpoena) for approval. If any difficulty is encountered, Legal Services may be consulted. Also, principal may call attorney who requested the subpoena and ask for "standby notification" to eliminate waiting time.