



Related California Codes for School Crossing Guards

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RESOURCE

Traffic Control for School Areas (Caltrans Traffic Manual, Chapter Part 7)

District Responsibility for Students Off of School Property

Districts are not responsible for pupils not on school property (except when on District-provided transportation to and from school or on an off premises, school-sponsored activity). , Districts can also be liable if they “specifically assumed such responsibility or liability or ... [have] failed to exercise reasonable care under the circumstances.” For example, this could occur if a District employee is controlling traffic in the public rights-of-way not on District property.

Education Code Section 44808. Notwithstanding any other provision of this code, no school district, city or county board of education, county superintendent of schools, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any pupil of the public schools at any time when such pupil is not on school property, unless such district, board, or person has undertaken to provide transportation for such pupil to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances. In the event of such a specific undertaking, the district, board, or person shall be liable or responsible for the conduct or safety of any pupil only while such pupil is or should be under the immediate and direct supervision of an employee of such district or board.

Districts are not responsible for high school students not on school property during the lunch period as long as parents or guardians have been appropriately notified at the beginning of the first semester or quarter of the school year.

Education Code Section 44808.5. The governing board of a school district may permit the pupils enrolled at any high school to leave the school grounds during the lunch period of such pupils. Neither the school district nor any officer or employee thereof shall be liable for the conduct or safety of any pupil during such time as the pupil has left the school grounds pursuant to this section.

In the event that the governing board grants such permission, it shall send the following notice along with the notification of parents and guardians required by Section 48980:

"The governing board of the ____ School District, pursuant to Section 44808.5 of the Education Code, has decided to permit the pupils enrolled at ____ High School to leave the school grounds during the lunch period. Section 44808.5 of the Education Code further states: "" Neither the school district nor any officer or employee thereof shall be liable for the conduct or safety of any pupil during such time as the pupil has left the school grounds pursuant to this section.""

Districts May Employee Crossing Guards

County boards of education or superintendents of schools may employ crossing guards.

Education Code Section 1319. The county superintendent of schools may employ, in accordance with the provisions of Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of Title 2, such personnel as may be necessary to act as guards at pedestrian crossings to ensure the safety of schoolchildren who use such intersections.

Districts may employ crossing guards.

Education Code Section 45450. The governing board of any school district may employ, in accordance with the provisions of this chapter, such personnel as may be necessary to act as guards at pedestrian crossings to ensure the safety of schoolchildren who use such intersections.

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istrict retirees may serve as crossing guards without impacting their retirements.

Government Code Section 21221. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:

- (a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his or her dependents.
- (b) As a school crossing guard.
- (c) As a juror or election officer.
- (d) As an elective officer on and after September 15, 1961. However, all rights and immunities which may have accrued under Section 21229 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.
- (e) As an appointive member of the governing body of a contracting agency. However, the compensation for that office shall not exceed one hundred dollars (\$100) per month.
- (f) Upon appointment by the Legislature, or either house, or a legislative committee to a position deemed by the appointing power to be temporary in nature.
- (g) Upon employment by a contracting agency to a position found by the governing body, by resolution, to be available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found by the governing body to require specialized skills. The temporary employment shall be terminated at the end of the leave of absence. Appointments under this section shall be reported to the board and shall be accompanied by the resolution adopted by the governing body.

- (h) Upon interim appointment by the governing body of a contracting agency to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. A retired person shall only be appointed once to this vacant position. These appointments, including any made concurrently pursuant to Section 21224 or 21229, shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the interim appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position divided by 173.333 to equal an hourly rate. A retired person appointed to a vacant position pursuant to this subdivision shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate. A retired annuitant appointed pursuant to this subdivision shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.
- (i) Upon appointment by the Administrative Director of the Courts to the position of Court Security Coordinator, a position deemed temporary in nature and requiring the specialized skills and experience of a retired professional peace officer.

Reimbursement Funds

If a District employs crossing guards, it may be reimbursed from funds collected pursuant to VC §§ 42200 and 42201.

Education Code Section 45451. The governing board of any school district which employs school crossing guards pursuant to this article may be reimbursed from funds including, but not limited to, those collected pursuant to Sections 42200 and 42201 of the Vehicle Code.

Education Code Sections 45452 and 45452.5 were repealed in 1993.

Education Code Section 49300. The governing board of any school district may, subject to such rules and regulations as shall be adopted by the State Board of Education, establish and maintain a school safety patrol in any of the schools of the district for the purpose of assisting school pupils in safely crossing streets and highways adjacent to or near such school.

School Safety Patrols

Districts may legally have school safety patrols consisting of students, under the supervision of an employee and with the permissions of parents or guardians, as authorized by the adopted rules and regulations. However, students as crossing guards or members of school safety patrols in no longer considered best practice and is not recommended (note that this was enacted in the mid-1970s).

Education Code Section 49301. A school safety patrol established in any school as herein provided shall be composed of pupils attending in such school. The members of the patrol shall be under the supervision and control of a qualified employee of the district designated by the board, except as otherwise provided in Sections 1299, 49472 to 49473, inclusive, 49510 to 49517, inclusive, Article 1 (commencing with Section 49400) to Article 5 (commencing with Section 49470), inclusive, Article 8 (commencing with Section 49500) of Chapter 9 of this part, and this article. The provisions of this section shall not, however, be deemed to require the physical presence of such employee at any particular street or highway location where any such school safety patrol is functioning.

Education Code Section 49302. The pupils who serve as members of a school safety patrol shall be designated by the principal of the school in which the patrol is established, but no pupil shall be designated to serve on any patrol unless the pupil and the person having legal custody of such pupil consent, in writing, thereto. Upon the revocation, in writing, of the consent of either such pupil or such person, the pupil shall cease to be a member of the patrol.

Education Code Section 49303. The State Board of Education is hereby authorized to adopt all rules and regulations necessary to effect the purposes of this act, and the governing board of each school district is hereby authorized to adopt additional rules and regulations not inconsistent therewith governing school safety patrols established under its jurisdiction.

Education Code Section 49304. The members of a school safety patrol established hereunder shall be authorized and required only to give traffic signals and directions in order to assist school pupils in safely crossing streets and highways.

Infractions for Disregarding Cross Guards

Disregard of an adult school crossing guard is an infraction subject to penalty.

Vehicle Code Section 2815. Any person who shall disregard any traffic signal or direction given by a nonstudent school crossing guard, appointed pursuant to Section 21100, or authorized by any city police department, any board of supervisors of a county, or the Department of the California Highway Patrol, when the guard is wearing the official insignia of such a school crossing guard, and when in the course of the guard's duties the guard is protecting any person in crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety, shall be guilty of an infraction and subject to the penalties provided in Section 42001.1.

City and County Ordinances for Crossing Guards

Cities and counties may enact ordinances with respect to adult school crossing guards.

Vehicle Code Section 21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding all of the following matters:

- (a) Regulating or prohibiting processions or assemblages on the highways.
- (b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.
- (c) Regulating traffic by means of traffic officers.
- (d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.
- (e) (1) Regulating traffic by means of a person given temporary or permanent appointment for that duty by the local authority when official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at locations as may require traffic direction for orderly traffic flow.
(2) A person shall not be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which the person is to perform the duty, for review, a proposed program of instruction for the training of a person for that duty, and unless and until the commissioner or other chief law enforcement officer approves the proposed program. The commissioner or other chief law enforcement officer shall approve a proposed program if he or she reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.
- (f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for that duty by the local authority.
- (g) (1) Licensing and regulating the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of the local authority, excepting the operation and operators of any auto dismantlers' tow vehicle licensed under Section 11505 or any tow truck operated by a repossessing agency licensed under Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and its registered employees.
(2) The Legislature finds that the safety and welfare of the general public is promoted by permitting local authorities to regulate tow truck service companies and operators by requiring licensure, insurance, and proper training in the safe operation of towing equipment, thereby ensuring against towing mistakes that may lead to violent confrontation, stranding motorists in dangerous situations, impeding the expedited vehicle recovery, and wasting state and local law enforcement's limited resources.
(3) This subdivision does not limit the authority of a city or city and county pursuant to Section 12111.
- (h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on public sidewalks.

- (i) *Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.*
- (j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.
- (k) (1) Regulating cruising.
 - (2) The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which is the repetitive driving of a motor vehicle past a traffic control point in traffic that is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution.
 - (3) A person is not in violation of an ordinance or resolution adopted pursuant to this subdivision unless both of the following apply:
 - (A) That person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval.
 - (B) The beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.
- (l) Regulating or authorizing the removal by peace officers of vehicles unlawfully parked in a fire lane, as described in Section 22500.1, on private property. A removal pursuant to this subdivision shall be consistent, to the extent possible, with the procedures for removal and storage set forth in Chapter 10 (commencing with Section 22650).
- (m) Regulating mobile billboard advertising displays, as defined in Section 395.5, including the establishment of penalties, which may include, but are not limited to, removal of the mobile billboard advertising display, civil penalties, and misdemeanor criminal penalties, for a violation of the ordinance or resolution. The ordinance or resolution may establish a minimum distance that a mobile billboard advertising display shall be moved after a specified time period.
- (n) Licensing and regulating the operation of pedicabs for hire, as defined in Section 467.5, and operators of pedicabs for hire, including requiring one or more of the following documents:
 - (1) A valid California driver's license.
 - (2) Proof of successful completion of a bicycle safety training course certified by the League of American Bicyclists or an equivalent organization as determined by the local authority.
 - (3) A valid California identification card and proof of successful completion of the written portion of the California driver's license examination administered by the department. The department shall administer, without charging a fee, the original driver's license written examination on traffic laws and signs to a person who states that he or she is, or intends to become, a pedicab operator, and who holds a valid California identification card or has successfully completed an application for a California identification card. If the person achieves a passing score on the examination, the department shall issue a certificate of successful completion of the examination, bearing the person's name and identification card number. The certificate shall not serve in lieu of successful completion of the required examination administered as part of any subsequent application for a

driver's license. The department is not required to enter the results of the examination into the computerized record of the person's identification card or otherwise retain a record of the examination or results.

- (o) (1) This section does not authorize a local authority to enact or enforce an ordinance or resolution that establishes a violation if a violation for the same or similar conduct is provided in this code, nor does it authorize a local authority to enact or enforce an ordinance or resolution that assesses a fine, penalty, assessment, or fee for a violation if a fine, penalty, assessment, or fee for a violation involving the same or similar conduct is provided in this code.
- (2) This section does not preclude a local authority from enacting parking ordinances pursuant to existing authority in Chapter 9 (commencing with Section 22500) of Division 11.
- (p) (1) Regulating advertising signs on motor vehicles parked or left standing upon a public street. The ordinance or resolution may establish a minimum distance that the advertising sign shall be moved after a specified time period.
- (2) Paragraph (1) does not apply to any of the following:
 - (A) Advertising signs that are permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle for permanent decoration, identification, or display and that do not extend beyond the overall length, width, or height of the vehicle.
 - (B) If the license plate frame is installed in compliance with Section 5201, paper advertisements issued by a dealer contained within that license plate frame or any advertisements on that license plate frame.
- (3) As used in paragraph (2), "permanently affixed" means any of the following:
 - (A) Painted directly on the body of a motor vehicle.
 - (B) Applied as a decal on the body of a motor vehicle.
 - (C) Placed in a location on the body of a motor vehicle that was specifically designed by a vehicle manufacturer as defined in Section 672 and licensed pursuant to Section 11701, in compliance with both state and federal laws or guidelines, for the express purpose of containing an advertising sign.

Traffic Control Devices

The DOT or cities and counties are responsible for the placement of traffic control devices under their respective jurisdictions related to protecting students going to and from school.

Vehicle Code Section 21372. The Department of Transportation and local authorities shall, with respect to highways under their respective jurisdictions, establish and promulgate warrants to be used as guidelines for the placement of traffic control devices near schools for the purpose of protecting students going to and from school. Such devices may include flashing signals. Such warrants shall be based upon, but need not be limited to, the following items: pedestrian volumes, vehicle volumes, width of the roadway, physical terrain, speed of vehicle traffic, horizontal and vertical alignment of the roadway, the distance to existing traffic control devices, proximity to the school, and the degree of urban or rural environment of the area.

Districts may request the DOT or cities or counties to install traffic control devices. In such cases, District may be required to pay up to 50 percent of the cost of the engineering and traffic survey that determines the needs.

Vehicle Code Section 21373. The governing board of any school district may request the appropriate city, county, city and county or state agency to install traffic control devices in accordance with the warrants established pursuant to Section 21372. Within 90 days thereafter, the city, county, city and county or state agency involved shall undertake an engineering and traffic survey to determine whether the requested crossing protection meets the warrants established pursuant to Section 21372. The city, county, city and county, or state agency involved may require the requesting school district to pay an amount not to exceed 50 percent of the cost of the survey. If it is determined that such requested protection is warranted, it shall be installed by the city, county, city and county or state agency involved.

Traffic Safety Fund proceeds shall be used to pay for traffic control devices and may be used to pay for school crossing guards (who are not police officers). In practice, these funds are utilized for long-standing agreements for various traffic safety needs. For the funds to be used for crossing guards, they would likely be taking away from one of these other areas.

Vehicle Code 42200. (a) Of the total amount of fines and forfeitures received by a city under Section 1463 of the Penal Code that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by an officer employed by a city, shall be paid into the treasury of the city and deposited in a special fund to be known as the "Traffic Safety Fund," and shall be used exclusively for official traffic control devices, the maintenance thereof, equipment and supplies for traffic law enforcement and traffic accident prevention, and for the maintenance, improvement, or construction of public streets, bridges, and culverts within the city, but the fund shall not be used to pay the compensation of traffic or other police officers. The fund may be used to pay

the compensation of school crossing guards who are not regular full-time members of the police department of the city.

- (b) For purposes of this section, “city” includes any city, city and county, district, including any enterprise special district, community service district, or county service area engaged in police protection activities as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

Vehicle Code Section 42201. (a) Of the total amount of fines and forfeitures received by a county under Section 1463.001 of the Penal Code, fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the state or by the county shall be paid into the general fund of the county. However, the board of supervisors of the county may, by resolution, provide that a portion thereof be transferred into the road fund of the county.

- (b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county. When requested, the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.

- (c) Fines and forfeitures received by a county under Section 1463.001 of the Penal Code may be used to pay the compensation of school crossing guards and necessary equipment costs and administrative costs.

- (d) When requested by any county which had in effect on June 30, 1979, a contract with the Department of the California Highway Patrol, to provide protection for school pupils at school crossings, the department upon request of a county shall continue to administer such school crossing program until June 30, 1980. The county shall reimburse the Department of the California Highway Patrol for general administrative costs and expenses in connection therewith, except that, effective January 1, 1980, the crossing guards shall be furnished to the California Highway Patrol and such crossing guards shall be employees of the county, the county superintendent of schools, the affected school districts, or both the superintendent and the affected school districts, at the option of the board of supervisors of the county. Any salaries and wages of crossing guards, including necessary retirement and equipment costs and any administrative costs shall be paid or reimbursed by the county from amounts deposited in the road fund pursuant to this section.

(e) The board of supervisors may adopt standards for the provision of school crossing guards. The board has final authority over the total cost of the school crossing guard program of any agency to be paid or reimbursed from amounts deposited in the road fund pursuant to this section. The board of supervisors may specify that a designated county officer, employee, or commissioner is to hire school crossing guards, or, in the alternative, the board may specify that any school district crossing guard program in unincorporated areas shall be maintained by the school districts desiring the program.

Vehicle Code Section 42001.1. (a) Every person convicted of an infraction for a violation of Section 2815 or a violation of subdivision (a) or (b) of Section 22526 at an intersection posted pursuant to subdivision (d) of Section 22526 shall be punished as follows:

- (1) For a first conviction, a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).
- (2) For a second conviction within a period of one year, a fine of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).
- (3) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(b) In addition to the fine specified in subdivision (a), the court may order the department to suspend the driver's license for up to 30 days of any person convicted of a third or any subsequent conviction of Section 2815 within a period of two years, and the department shall suspend the license for the period of time so ordered.