



# Turlock Unified School District

## Office of Student Services

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## LEGAL DEFINITIONS AND EXAMPLES

*Note that this document is to be used as a “quick-reference” guide. The actual text of these laws is considerably more detailed than what is shown. Please refer to the source document and read thoroughly before determining charges.*

### **Assault (PC 240)**

“Assault” is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

- As opposed to battery, assault **does not require** contact with the other person.
- Words alone do not constitute an assault.
- Conduct must be intentional.
- Threatening to hit someone with an object is assault when accompanied by an action that shows intent to carry out the threat.
- In Ed. Code, only applies to staff members.

✓ *Example: Mr. Smith is discussing Jesse’s behavior in class. Jesse gets mad and takes a swing at Mr. Smith, but does not connect.*

### **Battery (PC 242)**

“Battery” is any willful and unlawful use of force or violence upon the person of another.

- As opposed to assault, battery **requires** some type of violent, painful, or offensive physical contact.
- The person does not need to be injured for it to count as battery. For example, spitting on someone may be considered battery, depending on the circumstances.
- Conduct must be intentional.
- In Ed. Code, only applies to staff members.

✓ *Example: Ms. Johnson is standing in the doorway to her classroom, blocking students from leaving. Gregorio pushes Ms. Johnson out of the way so he can leave.*

✓ *Example: A safety officer is breaking up a fight between two girls. One of the girls says “I don’t have to listen to you!” and spits on the safety officer.*

✓ *Example: Wendy throws a pencil across the classroom at a group of students surrounding the teacher at her desk. The teacher is struck in the head with the pencil. Though Wendy wasn’t aiming at the teacher and had*

*no intention of hitting her, she knew her actions were likely to cause injury to someone in the group, so this is battery.*

**Bullying (EC 48900(r))**

“Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.
- (B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
- (C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.
- (D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

**Controlled Substance (HSC 11007)**

“Controlled Substance,” unless otherwise specified, means a drug, substance, or immediate precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

**Dirk or Dagger (PC 16470)**

“Dirk” or “Dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

**Explosive (EC 48915(h))**

“Explosive” means “Destructive Device” as described in Section 921 of Title 18 of the United States Code. The term “Destructive Device” means:

- Explosive, incendiary, or poison gas
- Bomb
- Grenade
- Rocket having a propellant charge of more than four ounces
- Missile having an explosive or incendiary charge of more than one-quarter ounce
- Mine
- Device similar to any of the devices described in the preceding clauses

### **Extortion (PC 518)**

“Extortion” is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

- ✓ *Example: Juan tells Lisa if she doesn't give him her phone, he will beat up her brother.*
- ✓ *Example: Tina tells Temisha that if she doesn't give her the answers to the test, she will tell everyone she is gay.*

### **Fear (PC 212)**

“Fear” may be either:

1. The fear of an unlawful injury to the person or property of the person robbed, or of any relative of his or member of his family;
2. The fear of an immediate or unlawful injury to the person or property of anyone in the company of the person robbed at the time of the robbery.

### **Firearm (PC 16520)**

“Firearm” means a device, designed to be used as a weapon, from which is expelled through the barrel, a projectile by the force of an explosion or other form of combustion. It may also include a rocket, rocket propelled projectile launcher, or similar device carrying an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes.

### **Harassment (CCP 527.6)**

“Harassment” is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.

### **Hazing (PC 245.6)**

“Hazing” means any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other educational institution in this state.

- ✓ *Example: The new members of the band are told that they need to chug a bottle of vodka.*
- ✓ *Example: The new members of the football team are forced to run through “the gauntlet” where every other member of the team gets to hit them in the stomach.*

### **Hate Crime (PC 422.55)**

“Hate Crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability
  - (2) Gender
  - (3) Nationality
  - (4) Race or ethnicity
  - (5) Religion
  - (6) Sexual orientation
  - (7) Association with person or group with one or more of these actual or perceived characteristics
- ✓ *Example: A student paints “God Hates Faggots” on the wall of the bathroom.*
  - ✓ *Example: A group of students attack an African American student for the sole reason that the student is black.*

### **Intimate Part (PC 243.4(g)(1))**

“Intimate Part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

### **Obscenity/Obscene Act**

“Obscenity” is any utterance or act that strongly offends the prevalent morality of the time. Currently, obscenity is evaluated by federal and state courts alike using a tripartite standard established by Miller v. California 413 U.S. 15 (1973). The Miller test for obscenity includes the following criteria:

- (1) Whether ‘the average person, applying contemporary community standards’ would find that the work, ‘taken as a whole,’ appeals to ‘prurient interest’
  - (2) Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and
  - (3) Whether the work, ‘taken as a whole,’ lacks serious literary, artistic, political, or scientific value.
- ✓ *Example: Petra and Ryan are caught having sex in the elevator at school.*
  - ✓ *Example: Simon is caught masturbating in the bathroom at school.*
  - ✓ *Example: Teresa is caught drawing penises on the wall of the bathroom.*

### **Knife (EC 48915(g))**

“Knife” means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3<sup>1</sup>/<sub>2</sub> inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

### **Paraphernalia (HSC 11014.5)**

“Paraphernalia” means all equipment, products and materials of any kind which are designed for use or marketed for use, in planning, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance.

### **Profanity**

“Profanity” is material or language that denotes certain of those personally reviling epithets naturally tending to provoke violent resentment or denoting language so grossly offensive to members of the public who actually hear it as to amount to a nuisance.

### **Robbery (PC 211)**

“Robbery” is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

- ✓ *Example: Robert pushed down Mark and took his skateboard.*
- ✓ *Example: Jessica and Cindy cornered Alma in the restroom and threaten to beat her up if she doesn't give them her lunch money.*
- ✓ *Example: Craig grabbed Lewis' phone from his hands.*

### **Sexual Assault (EC 67385)**

“Sexual Assault” includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

### **Sexual Battery (PC 243.4)**

“Sexual Battery” is the touching of an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse.

### **Sexual Harassment (EC 212.5)**

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

✓ *Examples of sexual harassment include:*

- *Making sexual propositions or pressuring students for sexual favors;*
- *Touching of a sexual nature;*
- *Writing graffiti of a sexual nature;*
- *Displaying or distributing sexually explicit drawings, pictures, or written materials;*
- *Performing sexual gestures or touching oneself sexually in front of others;*
- *Telling sexual or dirty jokes;*
- *Spreading sexual rumors or rating other students as to sexual activity or performance; or*
- *Circulating or showing e-mails or Web sites of a sexual nature.*

### **Terroristic Threat (EC 48900.7(b))**

“Terroristic Threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

### **Touch (PC 243.4(e)(2))**

“Touch” is physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

### **Vulgarity**

“Vulgar” is the quality or state of not having good taste, manners, politeness, etc. It is something (such as a word) that is offensive or rude.