



Michelle King  
Chief Deputy Superintendent  
Los Angeles Unified School District  
333 S. Beaudry Ave, 24<sup>th</sup> Floor  
Los Angeles, CA 90017

July 2, 2014

*Via e-mail and U.S. mail*

**Re: School Climate Complaint Re Implementation of LAUSD Random Metal Detector Search Policy, BUL 5424.1 at Central High School Mar Vista Gardens Site**

Dear Ms. King:

The following is a school climate complaint, pursuant to LAUSD's School Discipline Policy and School Climate Bill of Rights Resolution on behalf of the students of Central High School Mar Vista Gardens (hereinafter 'Central MVG') located within the Mar Vista Gardens Housing Community. The disruption to school climate and School-wide Positive Behavior Intervention and Supports pertains to the implementation of LAUSD's Random Metal Detector Search Policy, BUL 5424.1 ("Search Policy"). Per the School Climate Bill of Rights Resolution, we look forward to your response within 60 days.

**I. Central High School Mar Vista Gardens**

Central HS is a LAUSD Continuation High School with multiple school sites located throughout LA County. The Mar Vista Gardens site of Central HS is a one-room classroom located within the Mar Vista Gardens (MVG) Housing Community in Culver City. Central MVG has no administrators or other school personnel stationed on campus. The school site staff present each day is comprised of 1 teacher and 1 part-time teaching assistant. Enrollment at Central MVG fluctuates, but is generally around 20 students. Currently, there are 20 enrolled students at Central MVG.

Mar Vista Gardens is a large Section 8 Housing Community operated by the Housing Authority of the County of Los Angeles (HACLA). Community residents are very low-income individuals and families who are at or below the poverty line. The vast majority of MVG residents are Latino, and the community is comprised almost exclusively of people of color. There is a significant daily presence of law enforcement in the Mar Vista Gardens Housing Community and many of the Central HS MVG students and residents of the Housing Community have themselves experienced ongoing police surveillance, profiling, and 'stop and frisk' incidents throughout their young lives.

Central MVG provides a highly unique and invaluable resource within the MVG community. It is a small school that provides individualized attention to the academic and social-emotional needs of the student body. The school is a supportive haven for students who have struggled in large mainstream high schools for a variety of reasons, including, for example,

unmet educational needs, school 'push out' through punitive and exclusionary discipline, and limited transportation resources to commute to the MVG home school, Venice High School.

The only instructor of Central MVG, Vitaly, employs a relationship-based, student-directed, community-building model to support student success. Vitaly's primary strategy for maintaining a safe, healthy, and respectful school community is the implementation of School-Wide Positive Behavior Interventions and Support and restorative practices to build trust with students and to repair conflicts or other harms experienced by the students or within the school community. Vitaly has worked at Central MVG for eight years and has assisted students towards graduation under challenging circumstances through intensive and individualized support, dropout prevention, and credit recovery.

## **II. Background on Searches at Central HS Mar Vista Gardens**

Since Vitaly started teaching at Central MVG 8 years ago, there have been zero incidents of students or others bringing weapons to school. For approximately 5 years, from 2007-2012, searches of students were not conducted by the school administration or staff. Beginning in the 2012-2013 school year, the administration attempted to require Vitaly to implement random searches on his students personally, on a monthly basis. Vitaly has steadfastly refused to search his students. Vitaly's professional position is that conducting random metal detector searches at Central MVG is unnecessary and harmful to the school climate, actually decreases safety, and significantly compromises instruction and student learning.

Beginning in the 2012-2013 school year, the CHS administration initiated searches at Central MVG that took place about once per month for a few months each school year. The most recent searches took place on March 24, 2015. All students in attendance on March 24<sup>th</sup>, including those who were not searched, reported the incident as being intensely upsetting and disruptive. Many students reported having difficulty focusing on schoolwork after the incident due to the tension it created in the classroom and their concern for the well-being of the individual students who were subjected to the searches. The students were so distraught and unable to focus on their course work after the search that Vitaly had to conduct a restorative circle to address the impact and emotions it raised for students in order to calm the students down and regain their attention.

## **III. Description of the March 24, 2015 Student Searches**

Because Central MVG does not have any administrators on campus, and because Vitaly (the only certificated employee on site) has declined to stop class to personally search his students, on March 24, 2015, two off-site administrators visited the campus to perform metal detector searches of the students. (*See Attachment 1 - Student and Teacher Statements*).

At approximately 8:30 a.m., Ms. Helene Cameron, principal of CHS, entered Vitaly's classroom and informed Vitaly that the administration would perform a metal detector search of the students as soon as the assistant principal, Mr. Gary Martinez, arrived. Ms. Cameron observed all the students in the classroom, a total of 13, before identifying her method of selection of the students to be searched.

At approximately 8:45 a.m., Mr. Martinez arrived on campus and entered Vitaly's classroom. Mr. Martinez, along with Ms. Cameron, approached some of the students who were in an adjacent room studying and working on assignments with their math group. Ms. Cameron and Mr. Martinez instructed those students to stop working and enter the main classroom. Ms. Cameron then announced that she and Mr. Martinez were going to conduct searches of the students and their belongings. Ms. Cameron picked up a class roster and selected Jeremiah Tramble, the only African-American student in the classroom, and then every third student after him. In total, Ms. Cameron selected four students—Jeremiah Tramble, Nico Conanan, Alejandra Miranda, and Jesus Suarez—and instructed them to bring their belongings to the side room. Alejandra Miranda was then told to go back to the main room and wait while the male students were being searched.

In the side room, Ms. Cameron told each of the students to put their backpacks on the table. She then opened Nico Conanan's bag and began rifling through its contents. Neither Ms. Cameron nor Mr. Martinez applied the metal detector to the bag nor asked Nico what was in the bag before conducting the search. Nico became frustrated and told Ms. Cameron that he objected to the search. Nico then left the room angry. Nico was visibly upset when he left the side room and returned to the classroom, so Vitaly suggested he take some time to calm down in the adjacent courtyard.

Mr. Martinez and Ms. Cameron continued to search the remaining students. Mr. Martinez had the students empty all their pockets. He went through Jeremiah and Jesus' bags. He instructed the students to lift their shoes for a metal detector wand and then subsequently had them remove their shoes. He then conducted a full search of each student with the metal detector. The male students were then released back to the main classroom.

Ms. Cameron instructed Alejandra to re-enter the side room alone with the two administrators. Alejandra was told to hand over her belongings and empty her pockets. Mr. Martinez went through Alejandra's backpack and instructed her to remove her wallet from the bag. He then went through Alejandra's wallet. Ms. Cameron conducted a metal detector search of Alejandra before she was released to the classroom.

Shortly thereafter, Ms. Cameron left the classroom to speak to Nico and Vitaly. Ms. Cameron stated that she believed she, "deserved an apology." Nico and Ms. Cameron then spoke briefly outside. Nico expressed to Ms. Cameron why the experience of being searched raised strong feelings for him and his viewpoint that the search policy was implemented in a way that discriminated against students of color.

The searches ultimately revealed no weapons, drugs, or contraband of any kind. Following the searches, neither Ms. Cameron nor Mr. Martinez sent a letter home to the students they searched informing their parents that the searches occurred.

#### **IV. Basis for School Climate Complaint**

- a. Conducting Random Searches at Central MVG Is Unnecessarily Disruptive to School Climate and Violates Student and Instructor Rights to Implementation of School-Wide Positive Behavior Intervention and Supports.

The School Climate Bill of Rights Resolution and District’s Discipline Foundation Policy (BUL 6321) establish a student right to School-Wide Positive Behavior Intervention and Supports (“SWPBIS”). SWPBIS is an evidence-based approach that first and foremost relies on proactive strategies to establish a culture of mutual respect amongst students and staff and implementation of student supports and individualized interventions as a discipline model. The District properly acknowledges that all students have, “the right to be educated in a safe, respectful and welcoming environment,” and all educators have, “the right to teach in an atmosphere free from disruption and obstacles that impede learning.” The District is furthermore responsible for ensuring that, “equitable school-based practices are implemented in a fair, non-discriminatory and culturally-responsive manner.” (BUL 6321).

Vitaly has successfully implemented SWPBIS in the Central MVG classroom for 8 years and it has been effective, allowing him to maintain a safe and respectful school climate that has allowed countless students to enjoy social and academic success. All of this has been achieved without the utilization of random searches. In contrast, conducting random searches at the school disrupts Vitaly’s ability to continue to maintain a “safe, respectful and welcoming environment,” for the students. Students report feeling “criminalized,” meaning the searches create a culture that assumes they have done something wrong. They feel racially targeted and believe their white counterparts in higher income schools and communities are not subjected to the same treatment. Students express difficulty focusing on schoolwork during and after the searches were conducted on March 24<sup>th</sup>. Even those students who were not searched expressed concern for their fellow students and a heightened fear of being targeted by random, invasive, and unwarranted security measures that understandably distracted them from their schoolwork.

Implementation of random searches at Central MVG is an unnecessary intrusion and has negatively impacted the emotional well-being of the students, the instructor, and the school climate, in direct conflict with the District’s SWPBIS policy. Central MVG predominantly serves students who often have a history of disproportionate contact with the police and “stop and frisks” in their public housing community. The relationship to a “broken windows” manner of policing that is enforced in the Mar Vista Gardens housing community, that includes a persistent presence of police and disproportionate frequency of stops and searches, is one that neither the students nor Vitaly wants to replicate in the school environment. To the contrary, Vitaly and the students are collectively and proactively attempting to counteract the various negative experiences students have previously had—many of which involved mistreatment and criminalization in their schools and communities—by fostering a different, more supportive environment at Central MVG. Random searches under BUL 5424.1 are impeding their collective commitment to SWPBIS.

In this case, random searches are so disruptive to the classroom environment that Vitaly’s right to provide instruction “free from disruption” and to implement SWPBIS are also violated as

a result of implementing BUL 5424.1. The searches on March 24th were conducted during instructional time and therefore directly impeded Vitaly's ability to continue teaching for a specified period of time that included the length of the searches themselves and the restorative process necessary to repair the damage that the searches caused to the school environment.

The long-term impacts of implementing random searches at Central MVG should also be considered. A majority of the students have struggled academically and socially in other school environments. These same students report that they attend Central MVG and are motivated to graduate specifically because they feel supported in this unique and individualized environment. The introduction of random searches throughout the school year creates a tension for students that has potential to alter their mood, their motivation, and their overall relationship to the school environment.

Perhaps most importantly, we know for certain that students and the school climate at Central MVG have succeeded for many years without the use or threat of random searches. Simply put, students do not bring weapons to campus and are motivated and committed to the success of their school by the relationships they develop with their instructor and with fellow classmates.

Conducting random searches at Central MVG also conflicts with the U.S. Department of Justice (DOJ) and Department of Education's (DOE) Guiding Principals and Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (January 2014). The DOJ and DOE guidance expressly directs educators away from punitive school discipline and zero tolerance practices that "undermine efforts to create the positive school climates needed to engage students in a well-rounded and rigorous curriculum." They instead emphasize a "focus on prevention," "developing positive and respectful school climates," and using, "data and analysis to continuously improve and ensure fairness and equity for all students."<sup>1</sup> The random metal detector search policy contradicts federal guidance toward forgoing positive behavior interventions in favor of punitive and unwarranted searches that create a divide between students and school staff. The search policy also contravenes the guidance and recommendations by consuming valuable instructional time; across the district, the searches amount to hundreds, if not thousands, of hours of lost class time per year.

Finally, in violation of Cal. Gov't Code Section 11135, BUL 5424.1 likely has a disparate impact on low-income students and students of color due to differences in the way administrators implement the policies at their school sites.<sup>2</sup> According to the U.S. Department of Education, U.S. Department of Justice, and numerous research studies, students of color are twelve times more likely and low-income students are thirteen times more likely to be searched randomly with a metal detector than their white and/or affluent peers.<sup>3</sup>

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<sup>1</sup> The DOJ and DOE Guiding Principles and Dear Colleague Letter are available at <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>.

<sup>2</sup> Given the lack of specificity in the reporting data from school sites and the failure of schools administrators to provide comprehensive and uniform search logs, it is impossible to assess the extent of the disparate impact at this time.

<sup>3</sup> U.S. Dep't of Educ., *Indicators of School Crime and Safety*: 2009, at 68–73 (2009).

This problem is only exacerbated in schools that predominantly serve low-income communities and students of color. Here, in a classroom of only 20 students, all of whom are low-income youth of color, the policy has had an extremely harmful impact on the students who were searched, and who are under the constant threat of being searched. Vitaly's students uniformly recognize that all students searched were students of color and they reported feeling like they were being targeted because of their race and were being subjected to racial discrimination. Whether or not there was racial bias in the selection of the students, it is clear that the implementation of BUL 5424.1 in Vitaly's classroom has been disruptive to the school environment and only serves to make them more distrustful of the district and school administrators.

b. The Metal Detector Searches Conducted by CHS Administration on March 24, 2015 Violated BUL 5424.1.

Ms. Cameron and Mr. Martinez's search of the Central MVG students exceeded the scope of BUL 5424.1 because (1) it was overbroad and extended beyond the degree necessary to affirm that no weapons were concealed; (2) there is no indication that the administrators developed or implemented a pre-established random plan with which to select students; and (3) Ms. Cameron and Mr. Martinez failed to comply with LAUSD's notice requirements.

LAUSD's metal detector search policy provides, in relevant part: "A student or person to be searched shall be directed to remove all metal objects from their pockets, including coins. The student is to give their personal belongings, as described above, to a search team member or place them on a table or desk in plain view. *The belongings shall then be physically searched only to the degree necessary to affirm that no weapons are concealed therein.*" BUL 5424.1 § VII.D (emphasis added). Here, Ms. Cameron and Mr. Martinez's intrusive search of the students' belongings and their requirement that students remove articles of clothing plainly exceeded the bounds of the policy.

It was not necessary for the administrators to have searched the contents of the students' bags and belongings because a simple pass with the metal detector would have been sufficient to ensure that the belongings did not contain any weapons. Indeed, a pass with the metal detector is the same procedure that the District uses to ensure that students do not have any weapons on their person. Further, Ms. Cameron and Mr. Martinez's searches were far more intrusive than are allowed under the policy in that they proceeded to search items even after it was clear there were no weapons concealed within them. For example, they should not have searched the students' wallets or other personal items and should have terminated the search as soon as it became clear that there were no metallic objects in the bags.<sup>4</sup>

The searches also were overbroad because the administrators asked students to remove articles of clothing even when it was clear that the students did not have any metallic objects on their person. As BUL 5424.1 section VII.D states, the administrators should have applied the metal detector over the students' clothing and allowed students an opportunity to remove

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<sup>4</sup> As discussed further in section I.c, the searches were also likely unconstitutional, exposing the District to significant potential liability.

metallic objects from their pockets if the metal detector sounded. BUL 5424.1 does not allow administrators to force students to disrobe before applying the search, particularly when there was no evidence that the students were concealing any weapons or other metallic objects. Here, despite waving the metal detector on the students' shoes and confirming that there was no metal in them, the administrators still made students remove their shoes and made one of the students remove his sweater.

Second, pursuant to section I.D. of the policy, “[a] pre-established random plan should be used to select which students and what articles are to be searched.” *Id.* Ms. Cameron failed to articulate any pre-established plan for searching the students to Vitaly or the students. Rather, it appears that Ms. Cameron may have chosen a student on the list whom she already knew. The initial student Ms. Cameron chose to search was a student with whom Ms. Cameron had previous interactions and it is unclear whether Ms. Cameron chose this student at random or whether she selected him based on her prior experience with him.

Third, the District requires school administrators to notify parents if their children are searched. Here, CHS administrators failed to send any letter or other notice home to the students' parents notifying them of the search and informing them that no weapons or contraband were found as a result of the searches.

c. The Metal Detector Searches Conducted by CHS Administration on March 24, 2015 May Have Been Unconstitutional.

We believe the searches conducted by Ms. Cameron and Mr. Martinez may have been unconstitutional. California and federal courts have long held that students in public schools have a legitimate expectation of privacy in the personal effects they bring to school. *See In re Cody S.*, 121 Cal. App. 4th 86, 91 (2004). “[T]here is no reason to conclude that [students] have necessarily waived all rights to privacy in such items merely by bringing them onto school grounds.” *N.J. v. T.L.O.*, 469 U.S. 325, 339 (1985). As the California Supreme Court has confirmed, “the privacy of a student, the very young or the teenager, must be respected.” *In re William G.*, 40 Cal. 3d 550, 563 (1985).

To meet the standards required by the United States and California Constitutions, a search of a student's belongings must be reasonable, which generally involves a twofold inquiry. “[F]irst, one must consider ‘whether the . . . action was justified at its inception.’” *T.L.O.*, 469 U.S. at 341. Generally, this will be satisfied “when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.” *Id.* at 341-42. The second part of the analysis involves determining whether the search, as actually conducted, “was reasonably related in scope to the circumstances which justified the interference in the first place.” *T.L.O.*, 469 U.S. at 341. “Such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.” *Id.* at 342.

California courts have held that schools must be even more judicious where they engage in searches of students without individualized suspicion. In particular, in *In re Latasha W.*, 60

Cal. App. 4th 1524, 1527 (1998), the case cited in BUL 5424.1, the court suggested that such searches must be “minimally intrusive” and the court there noted that a search would be permissible where “[s]tudents were not touched during the search, and were required to open pockets or jackets only if they triggered the metal detector.” *Id.*

Here, the administrators’ searches were intrusive and went far beyond what was reasonably related to the objectives of the search, particularly in light of the fact that the searches were performed without individualized suspicion. Unlike the administrators who were the subject of *In re Latasha W.*, here, Ms. Cameron and Mr. Martinez asked students to remove articles of clothing despite the fact that there was no evidence the students concealed weapons or metal objects and searched through the students’ belongings without first attempting to scan them with the metal detector. These administrators essentially conducted unbounded searches, in which students’ personal items were rifled through without limitation, which deeply violated the students’ right to privacy and potentially revealed a tremendous amount of highly personal information. For instance, students may carry on them items of personal significance, such as photographs of loved ones, diaries, or medical items, which they wish to keep confidential. As California courts have repeatedly confirmed, students have the right to maintain the privacy of these items. As such, there are serious concerns as to whether the searches, as conducted, were performed in accordance with the Fourth Amendment.

Further, suspicionless searches may only be conducted where students are chosen at random. *See, e.g., In re Latasha W.*, 60 Cal. App. 4th at 1427. Here, given the very small population of students, it is difficult to control for targeting and to ensure that students truly are chosen at random. At a minimum, the students who have been subjected to the searches feel like they have been targeted and believe that the administrators chose them based on their past experience with them or knowledge of their disciplinary records.

d. Alternatives to Implementation of BUL 5424.1 Exist that Are Less Intrusive and Protect Against Discrimination.

On October 16, 2014, Vitaly sent a letter to his administration informing them of his position that random searches are harmful to the students and the school environment. Vitaly then delivered a follow-up correspondence to Ms. Cameron on April 7, 2015 outlining a proposed ‘Alternative Safety Prevention & Intervention Plan,’ and requesting an exception to implementation of BUL 5424.1 pursuant to Section IV A of the Expanded School-Based Management Model (ESBMM) Agreement between LAUSD and UTLA (*See Attachment 2*). Under this agreement, “ESBMM Schools shall be exempt from Board Rules and District policies except those necessary for legal compliance . . . with State and federal laws.” Vitaly was informed by the Central HS principal, Ms. Cameron, that she refused to consider any alternative to the random metal detector search policy. At a subsequent meeting with Ms. Cameron and Susana Cuevas, LAUSD Field Director, Vitaly again submitted a proposal for an alternative to this random search policy from which CHS, as an ESBMM school, is already exempt. Vitaly was told that the administration would continue to implement the random search policy in his classroom.

Unfortunately, the current Central HS administration has demonstrated a troubling lack of investment in the concerns that have been brought to their attention about random searches at Central MVG and the negative impacts on students and school climate. Not only have they refused to consider meaningfully the effect these policies have had on Vitaly and his students' classroom, they in fact seem to display a bias for conducting student searches over other, more effective, methods of promoting safety. Their bias is evidenced by the administrations' steadfast refusal to consider viable alternatives that have demonstrated to be effective over the course of eight years at Central MVG and that would sufficiently address the concerns of students and staff about implementing random searches on campus. Beyond demonstrating a lack of familiarity with the policy and the relevant constitutional constraints, the administrators who conducted the searches on March 24 evidenced a lack of understanding and sensitivity to the intrusive and emotional nature of the experience, even going so far as to demand an apology from the student who was traumatized by the search. The restorative justice practices Vitaly has implemented in his classroom have a proven record of being effective and should not be discarded in favor of harmful, and potentially discriminatory, policies.

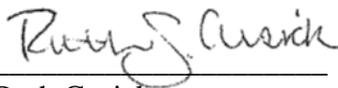
For the foregoing reasons, we request that you stop conducting random metal detector searches of students at Central MVG, beginning in the 2015-16 academic year. We urge the District instead to approve an 'Alternative Safety Prevention and Intervention Plan' that is consistent with District policy and SWPBIS and that shall act as a valid exception to implementation of BUL 5424.1, pursuant to the ESBMM Agreement IV A. Several community stakeholders are in support of such an alternative, including but not limited to the United Teachers Los Angeles (*See* Attachment 3), the Del Rey Neighborhood Council and multiple community-based organizations serving the student-body population at Central MVG.

We share your commitment to improving school climate at all LAUSD schools and are willing to serve as a resource as you reevaluate this policy in relationship to Central MVG and district-wide. We strongly urge the District to replace BUL 5424.1 with more effective and less harmful policies and practices that are preventative and rely on positive interventions, like counseling, professional development, reducing class size, and restorative justice practices.

Sincerely,



Victor Leung  
 ACLU of Southern California  
 1313 West Eighth Street  
 Los Angeles, CA 90017  
 213-977-5210  
 vleung@aclusocal.org



Ruth Cusick  
 Public Counsel  
 610 S. Ardmore Ave.  
 Los Angeles, CA 90005  
 213-385-2977  
 rcusick@publiccounsel.org

Enclosures

cc: Dr. Earl Perkins, Assistant Superintendent School Operations  
 L.A. Unified Board of Education