

**Michael Freund & Associates**

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January 25, 2022

Xavier Becerra  
California Attorney General  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-1413

Stephen M. Wagstaffe  
San Mateo County District Attorney  
400 County Center, 3<sup>rd</sup> Floor  
Redwood City, CA 94063

Ken Stupi, Registered Agent  
The Ignatian Corporation dba St. Ignatius College Preparatory  
2001 37<sup>th</sup> Ave.  
San Francisco, CA 94116-1165

**Re: Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code Sections 25249.5 et seq. ("Proposition 65")**

Dear Alleged Violators and the Appropriate Proposition 65 Public Enforcement Agencies:

I represent Friends of Safe Playing Fields, ("Friends") an association of neighbors who are concerned that student athletes and other persons who come into contact with the turf at the Fairmont Field located at 260 Edgewood Drive, Pacifica, California 94044 are being exposed to lead, a very dangerous heavy metal without any knowledge. Friends main contact is Steve Aronovsky. Tel.: 650-266-8200; email [lonemoretime77@yahoo.com](mailto:lonemoretime77@yahoo.com). This letter constitutes notification that the Ignatian Corporation, dba St. Ignatius College Preparatory has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act which is codified at Health & Safety Code § 25249.5 et seq.

Friends has identified violations of Proposition 65 from the alleged Violators identified herein. The alleged Violators possess, own or otherwise control the Fairmont Field in Pacifica, California which is used primarily by students of St. Ignatius College Preparatory for soccer, baseball and other sports or school activities. The field is comprised of fake green grass blades with tire crumb turf that contain lead. The alleged Violators have exposed and continue to expose students and other persons engaged in activities on the Fairmont Field to this chemical including but not limited to teachers, coaches, groundskeepers and referees/umpires without providing a clear and reasonable warning to these individuals. This letter serves as a notice of

these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7, subdivision (d), Friends intends to file a private enforcement action in the public interest 60 days after effective service of this Notice of Violation unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information About Proposition 65:** A copy of a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators.

**Alleged Violators:** The names of the companies covered by this Notice of Violation that violated Proposition 65 are:

**The Ignatian Corporation dba St. Ignatius College Preparatory**

**Information Pertaining to Lead and Proposition 65:** On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

**General Geographic Location of the Unlawful Exposure and Route of Exposure:** The location of the unlawful exposure initially takes place at the Fairmont Field located at 290 Edgewood Drive, Pacifica, California 94044.

The exposures that are the subject of this Notice of Violation occur through dermal contact, inhalation and ingestion.

**Approximate Time Period of Violations:** Ongoing violations have occurred each day during the ordinary course of business operations since at least January 25, 2019 and will continue every day until clear and reasonable warnings are provided to those persons exposed to lead or until the turf at Fairmont Field is replaced with natural grass.


Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. Based on the environmental exposure at issue, the method of warning should be one or more of the methods required in the California Code of Regulations (“CCR”), title 27, Section 25604. The method of warning should be a warning sign posted at all public entrances to Fairmont Field in no smaller than 72-point type. The warning sign must clearly state that the source of the exposure is the turf; be provided in a conspicuous manner and under such conditions as to make it likely to be seen, read and understood by an ordinary individual in the course of normal daily activity; be provided in English and in any other language used on other signage in the affected area. *Id.* at Section 25604, subdivision (a) (1) (A)-(C). The warning sign must also comply with the provisions set forth at 27 CCR Section 25605.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Friends is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the

alleged Violators to (1) take immediate action to replace the toxic turf with natural grass so as to eliminate further exposures to students and others to this dangerous chemical; 2) provide clear and reasonable warnings compliant with Proposition 65 to those students and others who both currently come into contact with the turf field and have come into contact with the turf field and were exposed to lead during the last three years; and 3) pay an appropriate civil penalty. Such a resolution will prevent further unwarranted exposures to the identified chemical, as well as expensive and time-consuming litigation.

Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at [freund1@aol.com](mailto:freund1@aol.com).

Sincerely,



Michael Freund

Attorney for Friends of Safe Playing Fields

Attachments: Certificate of Merit, Certificate of Service, OEHHA Summary (to Violators only), and Additional Supporting Information for Certificate of Merit (to Attorney General only)

**CERTIFICATE OF MERIT**

**Re: Friends of Safe Playing Fields Notice of Proposition 65 Violation**

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the Notice of Violation violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the Notice of Violation.

4. Based on the information obtained through this consultation, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not provide that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by the individual.

Dated: January 25, 2022

  
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Michael Freund

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, CA 94704.

On January 24, 2022 I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; Certificate of Merit; and Appendix A, Office of Environmental Health Hazard Assessment, California Environmental Protection Agency, "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" on the following party by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, at a United States Postal Service Office in Berkeley, California for delivery by Certified Mail and via electronic mail addressed as follows:

Ken Stupi, Registered Agent  
The Ignatian Corporation dba St. Ignatious College Preparatory  
2001 37<sup>th</sup> Ave.  
San Francisco, CA 94116-1165

On January 24, 2022, I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; Certificate of Merit; and Additional Supporting Information for Certificate of Merit by uploading to the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

California Attorney General/Proposition 65 Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

On January 24, 2022, I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; and Certificate of Merit by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, at a United States Postal Service Office in Berkeley, California for delivery by Certified Mail addressed as follows:

Stephen M. Wagstaffe  
San Mateo County District Attorney  
400 County Center, 3<sup>rd</sup> Floor  
Redwood City, CA 94063

I, Michael Freund declare under penalty of perjury that the foregoing is true and correct. Executed on January 25, 2022 at Berkeley, California.

  
Michael Freund