

2021-24 Countywide Plans for Expelled Students

Triennial Update
June 16, 2021

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Santa Clara County Office of Education District Plans

ELEMENTARY SCHOOL DISTRICTS

- Alum Rock
- Berryessa
- Cambrian
- Campbell
- Evergreen
- Moreland
- Mt. Pleasant
- Oak Grove
- Sunnyvale
- Union

HIGH SCHOOL DISTRICTS

- Campbell
- East Side
- Fremont
- Los Gatos-Saratoga
- Mountain View-Los Altos

UNIFIED SCHOOL DISTRICTS.....

- Gilroy
- Milpitas
- Morgan Hill
- San Jose
- Santa Clara

Santa Clara County Office of Education

The Santa Clara County Office of Education offers educational alternatives to expelled students through community schools. Community school enrollment requires referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c). School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program through an intervention process to include but not limited to: Student Attendance Review Team or discipline meeting.

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Community Schools

Sunol grades 6-12

South County grades 6-12

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.”

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 263,449 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2021 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in district).

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

**GAPS IN EDUCATIONAL SERVICES TO EXPELLED STUDENTS
AND
STRATEGIES FOR FILLING THOSE GAPS
2021-2024**

The gaps identified in 2021 in educational services to expelled students remain a focus for Santa Clara County. We continue to work with staff, districts, students and families to mitigate their impact.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are in rural areas and others are in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this challenge is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings.

2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level.

3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO FAIL COMMUNITY SCHOOL PLACEMENTS

The community school programs operated by the Santa Clara County Office of Education maintains commitment of accepting students who have been expelled from their district of residence and who have exhausted all of the alternatives offered by the district. If an initial placement is made to a district operated community day school and the student commits an expellable offense or fails the program, the district's School District Board of Education shall review the plan of rehabilitation that was established at the time of expulsion and make the adjustments necessary. If there is no educational alternative in the School District, the student may be referred to the county community school program.

For students in the Santa Clara County community schools who have recommitted an expellable offense, the Santa Clara County Office of Education works closely with the district, probation, families and school officials to determine the next phase of support. Options are limited to modified curriculum and school day. If these options are exhausted an expelled student may be referred back to their home district to explore additional options.



**THREE YEAR EXPULSION PLAN BETWEEN THE
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
&
SANTA CLARA COUNTY OFFICE OF EDUCATION
FOR THE
IMPLEMENTATION
OF
EDUCATION CODES
§48916.1 AND §48926**

2021-2024

Developed by

**Alum Rock Union Elementary School District Student Services Department
2930 Gay Ave
San Jose, CA 95127**

INTRODUCTION

Educational programs within Santa Clara County provide numerous opportunities for students who are in need of traditional and/or alternative education programs. While individual school districts offer a broad spectrum of services and the County Office of Education offers additional options, this combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is provided a rehabilitation plan designed by the Alum Rock Union Elementary School District's Student Services Division. This plan may involve one or more of the options outlined. A student who is simply in need of an educational alternative may also access these programs through the Alum Rock Union Elementary School District and/or Santa Clara County Office of Education referral process.

California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of the school districts within the county, to develop a plan for providing educational services to all expelled students in that specific county. The plan is to be approved by each local governing board as well as by the county board of education. The plans are then submitted to the State Superintendent of Public Instruction. A triennial update is required.

EDUCATION CODES

Education Code §48926

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils; identify gaps in education services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997 and shall submit a triennial update of the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section §48916.1 on June 30th thereafter.

Education Code §48916.1

a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of Kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12 inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of Kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e) (1) Each school district shall maintain the following data.

- (A) The number of pupils recommended for expulsion
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of a referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of the expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, The Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

CURRENT INTERVENTIONS UTILIZED PRIOR to SUSPENSION or EXPULSION

Alum Rock has seen a significant decline in the number of suspensions and expulsions in the last three years. Prior to the student being suspended, schools implement other means of correction actions specific to the type of offense committed and that address each students' individual needs. Examples of other means of correction include, but are not limited to, a parent conference, student counseling, participation in a social skills group, behavior contracts, mentoring support, research projects & presentations, restorative circles.

Eleven schools in the district are implementing the school wide intervention program Positive Behavior Interventions & Supports (PBIS).

The District is currently developing a Multi-Tiered Systems of Support (MTSS) framework to be used district wide. This framework will be used to support students with academic as well as with social emotional and behavioral needs. In an effort to be consistent across the district with discipline and restorative practices.

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT EXISTING PLAN FOR EXPELLED YOUTH

Alum Rock School District, located within Santa Clara County, offers the following options for expelled youth, depending on the specific offense and Education Code violation:

- 1) Suspended expulsion with placement on a different campus within the District.
- 2) Expulsion with referral and release to the Santa Clara County Office of Education and Community School/Day Center Program.
- 3) Placement in another public school or charter school, with consent from all parties.

Actual referral to such a placement is made by Alum Rock's Board of Trustees or through District recommendation from the Expulsion Hearing Panel, SARB, or a similar district referral process.

Recommendations for expelled students and placement take the following information into consideration:

- The student's age
- The student's academic, attendance and discipline history
- Parental involvement in the student's rehabilitation plan

DISTRICT GAPS AND STRATEGIES IN EDUCATIONAL SERVICES

There are three gaps that exist with respect to providing educational services to expelled pupils.

1. It is possible under Education Code §48916.1 (a) that a student would not be expelled. As an example, a student who has been expelled from Alum Rock under Education Code §48915 and referred to either a County operated Community School program could commit another violation of Education Code §48915 and ultimately be referred back to Alum Rock.

District Strategy for addressing this gap:

The status of the student will be reviewed by a District team. If appropriate the student may be referred to another Community School or an Independent Study Program. If Special education needs exist, the IEP team would convene to determine placement for the student the least restrictive environment.

2. Students in grades one through six who are expelled do not have the same educational options available as do expelled youth who are grades seven through twelve due to limited numbers of students who are expelled in these lower grades. Younger students cannot attend the programs designed for middle or high school students. Though the numbers are growing, these are generally not enough to comprise an elementary school classroom or program.

District strategy for addressing this gap:

Students will attend a regional program or be referred to a different elementary school site within the district.

3. Transportation to appropriate programs may be an issue for some families. Many parents work and do not have the time or financial resources to transport their child across town to attend a community school.

District strategy for addressing this gap:

Bus passes are offered to the students as well as to an adult should a parent want to accompany their child to and from school.

COUNTY AND DISTRICT ALTERNATIVE PLACEMENTS

The district of residence continues to maintain responsibility for the expelled student. A rehabilitation plan is developed for the student and the student is referred to an appropriate educational setting either within or outside the school district.

Expelled students who are placed in an educational setting within the district and who fail to meet the terms and conditions of their rehabilitation plan may be referred to a different school, another district, or the Santa Clara County Office of Education Community School.

Expelled students who are referred to Santa Clara County Office of Education Community School shall develop an Individual Learning Plan with the students' parents and County of Education Staff. Part of this plan may include a goal of returning to the school district of residence after the district expulsion term. If students are not successful in the county-operated program, they are referred back to the district for review and replacement. The Director of the Student Services Department meets with the student and his/her family to discuss options.

Berryessa Union School District
Regular Meeting of the Board of Trustees
April 13, 2021 5:30 PM
1376 Piedmont Road, San Jose, CA 95132

Mission Statement: Berryessa Union School District provides all students the skills to become lifelong learners and successful 21st century global citizens.

CLOSED SESSION – Personnel, Negotiations, Legal Matters

Pursuant to State law (Section 54954.2), closed sessions are not open to the public and may only be held for collective bargaining discussion, employment or dismissal of an employee, disciplinary matters relative to student(s) or employee(s), meeting with legal counsel on pending or anticipated litigation, emergency situations, and other exceptions as provided by law, including Government Code Sections 549.57 and 549.57.6.

1. Public Participation Instructions

Superintendent

In response to the Shelter in Place Order given to Santa Clara County and the State of California, until further notice, the Berryessa Union School District will be conducting its Board of Trustees meetings at the regular times, in a different modality.

The District will be leveraging a Webinar format (using Zoom) in order for the Trustees to participate remotely, and to allow for orderly public comment. There will not be a physical location for this meeting.

PUBLIC COMMENT:

Participants who would like to make comments can join the meeting from their computer, tablet or smartphone. We ask the participants to type their full name when joining the meeting, as prompted. The President of the Board will announce the opportunity for public comment on non-agenda items and for each agenda item. We ask that all participants who wish to make public comments for that agenda item to use the “Raise your hand” functionality. The attendees will be called upon, their microphone unmuted, and then allowed to make their public statement for up to three minutes. At the end of the three minutes, the attendee’s microphone will be muted and the next participant will be called upon.

How to Connect to the Meeting:

Open Session Will Begin at 7:00 p.m.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://busd-net.zoom.us/j/86290729568?pwd=di92RWk1aW9sbG1QU0p1cEttbnBJUT09>
Passcode: Q2TVnD

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833

Webinar ID: 862 9072 9568

Passcode: 541183

2. Call to Order

2.A. Roll Call

3. Closed Session

**3.A. Conference With Legal Counsel – Anticipated Litigation
– Government Code Section 54956.9(d)(2)**

Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Gov. Code Section 54956.9, Two Potential Cases.

**3.B. Student Discipline, Student Suspension, Student
Expulsion, or Student Expulsion Readmittance, Govt. Code
Section 35146, 48918**

**3.C. Conference with Negotiator, Govt. Code Section
54957.6**

Agency Designated Negotiator: Darrien Johnson and Other Members of the Negotiating Team

Employee Organizations:

California School Employee Association

California Teachers Association of Berryessa

Teamsters, Local 150

Management

**3.D. Public Employee
Discipline/Dismissal/Release/Complaint, Govt. Code Section
54957**

4. Public Comments on Closed Session Items

At this time, members of the public may address the Board on any item agendaized for Closed Session. Members of the public may also address the Board on an agenda item before or during the Board's consideration of the item. No action can be taken on an item not on the agenda at this time, but may be referred to the administration or put on a future agenda. Each speaker will be given 3 minutes to address the board, 5 minutes per organization, and a maximum of 20 minutes per topic.

5. Adjourn to Closed Session

6. Reconvene to Open Session

6.A. Flag Salute

6.B. District Mission Statement

6.C. Norms of Board of Trustees

6.D. Disclosure of Action Taken in Closed Session

6.E. Adoption of Agenda

7. Recognition/Ceremonial

8. Public Comments on Consent Calendar Agenda Items

At this time, members of the public may address the Board on any item agendized for Consent. Members of the public may also address the Board on an agenda item before or during the Board's consideration of the item. No action can be taken on an item not on the agenda at this time, but may be referred to the administration or put on a future agenda. Each speaker will be given 3 minutes to address the board, 5 minutes per organization, and a maximum of 20 minutes per topic.

9. Consent Calendar

9.A. Minutes of Regular Meeting - March 9, 2021

Superintendent

It is recommended the Board approve the minutes from the March 9, 2021 Regular Board Meeting.

9.B. Minutes of Board Retreat - March 20, 2021

Superintendent

It is recommended the Board approve the minutes from the March 20, 2021 Board Retreat.

9.C. Acceptance of Gift

Business Services

It is recommended the Board accept the March 1, 2021 through March 31, 2021 donation report.

9.D. Contract Services Agreements

Business Services

It is recommended the Board approve the Consultant/Service Agreements charged to accounts as indicated.

9.E. Disclosure of Investments

Business Services

It is recommended the Board accept the Santa Clara County Treasury Investment Portfolio Report as of December 30, 2020.

9.F. Financial Report

Business Services

It is recommended the Board accept the Financial Report for March 1, 2021 through March 31, 2021.

9.G. Purchase Order Report

Business Services

It is recommended the Board approve the purchase orders dated from March 1, 2021 through March 31, 2021.

9.H. Revolving Fund Report

Business Services

It is recommended the Board approve the Revolving Fund expenditures from March 1, 2021 through March 31, 2021.

9.I. Warrant Summary Report

Business Services

It is recommended the Board approve warrants dated from March 1, 2021 through March 31, 2021.

- 9.J. Disposal of Surplus Property** **Business Services
- Purchasing**
- It is recommended the Board approve the list of obsolete/surplus District property and direct staff to dispose of those items in accordance with the prescribed methods outlined in Education Code 60501, 60510 and 60530.
- 9.K. Personnel Report 20-21/9** **Human Resources**
- It is recommended the Board approve the Personnel Report 20-21/9 identifying additions and/or changes to district staffing.
- 9.L. Addiction Treatment Technologies, LLC DBA Care Solace General Service Agreement** **Education Services**
- It is recommended the Board approve the Addiction Treatment Technologies, LLC DBA Care Solace General Service Agreement.
- 9.M. Asset Education Partnership Pricing Agreement** **Education Services**
- It is recommended the Board approve the Asset Education Partnership Pricing Agreement to provide social-emotional curriculum designed to help reduce anxiety and stress for students for the 2021-2022 school year.
- 9.N. Benchmark Education Agreements for Special Education English Language Arts License Renewals** **Education Services**
- It is recommended the Board approve the Benchmark Education Agreement for Special Education English Language Arts License Renewals for special education students in grades 2-5.
- 9.O. Benchmark Education Flip Book Consumable Agreement** **Education Services**
- It is recommended the Board approve the Benchmark Education Flip Book Agreement.
- 9.P. CPM Educational Program Tool Kit Agreements** **Education Services**
- It is recommended the Board approve the CPM Educational Program Core Connections Tool Kits for Morrill, Piedmont, and Sierramont Middle Schools.
- 9.Q. Houghton Mifflin Harcourt Read 180 and English 3D Subscription Renewals for 2021-2022 school year** **Education Services**
- It is recommended the Board approve the Houghton Mifflin Harcourt (HMH) Read 180 and English 3D subscription renewals for the 2021-2022 school year.
- 9.R. Houghton Mifflin Harcourt Reading Inventory Subscription Renewal for 2021-2022 school year** **Education Services**
- It is recommended the Board approve the Houghton Mifflin Harcourt (HMH) Reading Inventory Subscription renewal for 2021-2022.

**9.S. Santa Cruz/Silicon Valley New Teacher Project
Memorandum of Understanding for the 2021-2022 school
year**

**Education
Services**

It is recommended the Board approve the Santa Cruz/Silicon Valley New Teacher Project Memorandum of Understanding for the 2021-2022 school year.

10. Comments from the Public on Non-Agenda Items

At this time, members of the public may address the Board on any issue within the subject matter jurisdiction of the Board that is not listed on this agenda. Members of the public may also address the Board on an agenda item before or during the Board's consideration of the item. No action can be taken on an item not on the agenda at this time, but may be referred to the administration or put on a future agenda. Each speaker will be given 3 minutes to address the board, 5 minutes per organization, and a maximum of 20 minutes per topic.

11. Reports and Presentations

11.A. Berryessa District Advisory Council (BDAC)

Heidi Rosslee

Heidi Rosslee, BDAC Chairperson, will provide an overview of the March 18, 2021 BDAC meeting.

11.B. Quarterly Report on Williams Uniform Complaints

**Education
Services**

Quarterly Report on Williams Uniform Complaints for the period of January 1, 2021 - March 31, 2021, as required by Education Code 35186.

11.C. Survey Results for Proposed Parcel Tax Measure

Business Services

Joy Tatarka of TBWBH Strategies, and Jessica Polsky of EMC Research will present to the Board the survey results for the proposed parcel tax measure.

11.D. Measure L and Measure U Bond Programs Update

**Business Services
- Measure L & U
Bond**

Mr. Tony Kanastab, Director of Bond Facilities and Modernization, will present and answer questions regarding the Measure L and Measure U Construction Bond Program.

12. Superintendent's Report

13. Comments/Announcements from the Board

14. Review and Discussion

14.A. COVID-19 and Related Topics of Discussion

Superintendent

The Superintendent of Schools and/or staff will present updates related to COVID-19, reopening schools, and other related topics for Board discussion, consideration, and input.

15. Public Hearings

16. Review and Action

16.A. California School Boards Association (CSBA) Delegate Assembly Run-Off Election - Region 20 **Superintendent**

It is recommended the Board select two delegates to the California School Boards Association (CSBA) Delegate Assembly for Region 20, Santa Clara County.

16.B. 2021-2022 Regular Board Meeting Dates **Superintendent**

It is recommended the Board establish the regular board meeting dates for the Board of Trustees meetings for the 2021-2022 school year as proposed.

16.C. Board Policy 0430 Comprehensive Local Plan for Special Education **Superintendent**

It is recommended the Board review and approve Board Policy 0430 Comprehensive Local Plan for Special Education for a first reading.

16.D. Board Policy 0460 Local Control And Accountability Plan **Superintendent**

It is recommended the Board review and approve Board Policy 0460 Local Control And Accountability Plan for a first reading.

16.E. Board Policy 0520 Intervention for Underperforming Schools **Superintendent**

It is recommended the Board review and approve new Board Policy 0520 Intervention for Underperforming Schools for a first reading.

16.F. Board Policy 0520.1 Comprehensive and Targeted Support and Improvement **Superintendent**

It is recommended the Board review and approve new Board Policy 0520.1 Comprehensive and Targeted Support and Improvement for a first reading.

16.G. Board Policy 5113.1 Chronic Absence and Truancy **Education Services**

It is recommended the Board review and approve Board Policy 5113.1 Chronic Absence and Truancy for a first reading.

16.H. Board Policy 5131 Conduct **Education Services**

It is recommended the Board review and approve Board Policy 5131 Conduct for a first reading.

16.I. Board Policy 6159 Individualized Education Program **Education Services**

It is recommended the Board review and approve Board Policy 6159 Individualized Education Program for a first reading.

16.J. Board Policy 6159.1 Procedural Safeguards and Complaints for Special Education **Education Services**

It is recommended the Board review and approve Board Policy 6159.1 Procedural

Safeguards and Complaints for Special Education for a first reading.

16.K. Board Policy 6159.2 Nonpublic, Nonsectarian School and Agency Services for Special Education **Education Services**

It is recommended the Board review and approve Board Policy 6159.2 Nonpublic, Nonsectarian School and Agency Services for Special Education for a first reading.

16.L. Three Year Expulsion Plan **Education Services**

It is recommended the Board approve the Three Year Expulsion Plan between the Berryessa Union School District and the Santa Clara County Office of Education.

16.M. Measure K Committee Interview and Appointment **Business Services**

It is recommended the Board appoint a new community member to the Measure K committee.

16.N. 2021-2022 Budget Calendar/LCAP Timeline **Business Services**

It is recommended the Board approve the 2021-2022 Budget Calendar and LCAP timeline.

16.O. Memorandum Of Understanding (MOU) Between Berryessa Union School District and California Teachers Association of Berryessa (CTAB) on Reopening Schools in the 2020-2021 School Year **Human Resources**

It is recommended the Board approve the Memorandum of Understanding (MOU) between Berryessa Union School District and California Teachers Association of Berryessa (CTAB) on reopening schools in the 2020-2021 school year.

16.P. Disclosure of the Memorandum of Understanding (MOU) Between the California Teachers Association Berryessa (CTAB) and Berryessa Union School District **Business Services**

It is recommended the Board accept the attached certified Disclosure of the California Teachers Association Berryessa (CTAB) Memorandum of Understanding (MOU).

16.Q. Memorandum of Understanding (MOU) Between The California School Employees Association, Chapter 364, and The Berryessa Union School District Regarding Reopening Schools In The 2020-2021 School Year **Human Resources**

It is recommended the Board approve the Memorandum of Understanding (MOU) between the California School Employees Association (CSEA) Chapter 364 and Berryessa Union School District regarding reopening schools In the 2020-2021 school year.

16.R. Memorandum of Understanding Between The Berryessa Union School District and The California Teachers Association of Berryessa (CTAB) Regarding Additional District COVID-19 Related Sick Leave **Human Resources**

It is recommended the Board approve the Memorandum of Understanding (MOU) between the Berryessa Union School District and California Teachers Association of Berryessa (CTAB) regarding additional District COVID-19 related sick leave.

16.S. Memorandum of Understanding Between The Berryessa Union School District and California School Employees Association (CSEA) Chapter 364 Regarding Temporary Additional Work Hours For Library Media Technicians **Human Resources**

It is recommended the Board approve the Memorandum of Understanding (MOU) between the Berryessa Union School District and California School Employees Association (CSEA) Chapter 364 regarding temporary additional work hours for library media technicians.

16.T. Memorandum of Understanding Between The Berryessa Union School District and California School Employees Association (CSEA) Chapter 364 Regarding Temporary Additional Work Hours For School Clerks **Human Resources**

It is recommended the Board approve the Memorandum of Understanding (MOU) between the California Employees Association (CSEA) Chapter 364 and Berryessa Union School District regarding temporary additional work hours.

16.U. Commercial Plumbing & Building, Inc. Ratification of a Lump Sum Agreement to Install Electrical and Data Cabling for the Marquee Sign at Piedmont Middle School **Business Services - Measure L Bond**

It is recommended the Board ratify the Commercial Plumbing & Building, Inc. Lump Sum Agreement to install electrical and data cabling for the marquee sign at Piedmont Middle School.

16.V. Dean Vongo Lump Sum Agreement for Cabling Upgrades in the MDF and IDF Rooms at All District Locations and Installation of Indoor and Outdoor Ruckus WiFi Access Points at Various School Locations **Business Services - Measure L Bond**

It is recommended the Board approve the Dean Vongo Lump Sum Agreement for cabling upgrades in the MDF and IDF rooms at all District location and the installation of indoor and outdoor owner supplied Ruckus WiFi access points at various school locations.

16.W. IT Management Corporation, Inc. Agreement Ratification for WiFi Equipment for Year 24 Category 2 E-Rate Services **Business Services - Measure L Bond**

It is recommended that the Board ratify the IT Management Corporation, Inc. Agreement for the purchase of WiFi Equipment for Year 24 Category 2 E-Rate services.

16.X. Kitchell CEM, Inc. Agreement for Construction Management Services for Outdoor Eating Areas and Fencing Projects at Five (5) School Sites **Business Services - Measure L Bond**

It is recommended the Board approve the Kitchell CEM, Inc. Agreement for construction management services for outdoor eating areas and fencing projects at five (5) school sites.

16.Y. Ron Paris Construction, Inc. Change Order #1 for the HVAC Upgrades in the Music Room at Morrill Middle School **Business Services - Measure L Bond**

It is recommended the Board approve the Ron Paris Construction, Inc. Change Order #1 for the HVAC upgrades in the music room at Morrill Middle School.

16.Z. Safe & Care Tree Service, Inc. Lump Sum Agreement Ratification for the Removal and Trimming of Trees at Noble, Ruskin, and Toyon Elementary Schools and Piedmont Middle School **Business Services - Measure L Bond**

It is recommended the Board ratify the Safe & Care Tree Service, Inc. Lump Sum Agreement for the removal and trimming of trees at Noble, Ruskin, and Toyon Elementary Schools and Piedmont Middle School.

16.AA. Silicon Valley Paving, Inc. Lump Sum Agreement Ratification for the Installation of Asphalt Paving for the Lunch Shade Shelter and Adjacent Areas at Majestic Way Elementary School **Business Services - Measure L Bond**

It is recommended the Board ratify the Silicon Valley Paving, Inc. Lump Sum Agreement for the installation of asphalt paving for the lunch shade shelter and adjacent areas at Majestic Way Elementary School.

16.BB. Strawn Construction Management, Inc. Agreement for Construction Management Services for the Library Circulation Desk Upgrade Project at Six (6) School Sites **Business Services - Measure L Bond**

It is recommended the Board approve the Strawn Construction Management, Inc. Agreement for construction management services for the library circulation desk upgrade project at six (6) school sites.

16.CC. VS Fencing Company, Inc. Lump Sum Agreement Ratification to Install New Ornamental Fencing and Gates in the Kinder Area at Laneview Elementary School **Business Services - Measure L Bond**

It is recommended the Board ratify the VS Fencing Company, Inc. Lump Sum Agreement to install new ornamental fencing and gates in the Kindergarten area at Laneview Elementary School.

16.DD. Carroll Engineering, Inc. Agreement for Surveying Services for the Gym Project at Piedmont Middle School **Business Services - Measure U Bond**

It is recommended the Board approve the Carroll Engineering, Inc. Agreement for surveying services for the gym project at Piedmont Middle School.

16.EE. IBI Group Architecture and Planning, Inc. Agreement for Architecture Services for Library Upgrades and Improvements at Noble Elementary School and Piedmont, and Sierramont Middle Schools **Business Services - Measure U Bond**

It is recommended the Board approve the IBI Group Architecture and Planning, Inc. Agreement for architecture services for library upgrades and improvements at Noble Elementary School and Piedmont, and Sierramont Middle Schools.

16.FF. Kitchell CEM, Inc. Agreement for Construction Management Services for the Construction of a New Gymnasium at Piedmont Middle School **Business Services - Measure U Bond**

It is recommended the Board approve the Kitchell CEM, Inc. Agreement for construction management services for the construction of a new gymnasium at Piedmont Middle School.

16.GG. Kitchell CEM, Inc. Agreement for Construction Management Services for Various Measure U Bond Projects **Business Services - Measure U Bond**

It is recommended the Board approve the Kitchell CEM, Inc. Agreement for construction management services for various Measure U Bond projects.

16.HH. KW Engineering, Inc. Agreement for Engineering Services for an LED Lighting Retrofit Program at Laneview, Ruskin, and Summerdale Elementary Schools and all Portable Classrooms Districtwide **Business Services - Measure U Bond**

It is recommended the Board approve the KW Engineering, Inc. Agreement for engineering services for an LED lighting retrofit program at Laneview, Ruskin, and Summerdale Elementary Schools and all portable classrooms districtwide.

16.II. Strawn Construction Management, Inc. Agreement for Construction Management Services for the Fire Alarm, Public Address, and Security System Upgrade/Replacement Projects at Morrill and Piedmont Middle Schools **Business Services - Measure U Bond**

It is recommended the Board approve the Strawn Construction Management, Inc. Agreement for construction management services for the fire alarm, public address, and security system upgrade/replacement projects at Morrill and Piedmont Middle Schools.

16.JJ. Strawn Construction Management, Inc. Agreement for Construction Management Services for Library Upgrades and Improvements at Eight (8) School Sites **Business Services - Measure U Bond**

It is recommended the Board approve the Strawn Construction Management, Inc. Agreement for construction management services for library upgrades and improvements at (8) eight school sites.

16.KK. Strawn Construction Management, Inc. Agreement for Construction Management Services for LED Lighting Replacement at Three School Sites and All Portable Classrooms Districtwide, and a Solar System Installation at the Corporation Yard

**Business Services
- Measure U Bond**

It is recommended the Board approve the Strawn Construction Management, Inc. Agreement for construction management services for LED lighting replacement at three (3) school sites and all portable classrooms Districtwide and a solar system installation at the Corporation Yard.

16.LL. TMP Services, Inc. Lump Sum Agreement Ratification to Install New Ramps for the Portable Classrooms at Brooktree Elementary School

**Business Services
- Measure U Bond**

It is recommended the Board ratify the TMP Services, Inc. Lump Sum Agreement to install new ramps for the portable classrooms at Brooktree Elementary School.

17. Requests for Staff Follow-Up

18. Items for Future Agendas

19. Adjournment

NORMS OF THE BOARD OF TRUSTEES

The Berryessa Union School District Board of Trustees Agree to:

- Focus on the best interest of students at all times
- Be respectful
- Listen openly
- Address problems and process; not persons
- Keep each other informed
- Maintain confidentiality
- Work toward the future; learn from the past
- Equal participation from all members
- Stay on task

In compliance with the Americans with Disabilities Act, for those requiring special assistance to access the Board meeting room, to access written documents being discussed at the Board meeting, or to otherwise participate at Board meetings, please contact the Superintendent's Administrative Assistant, Kim Gomez, at 408-923-1815, for assistance. Notification at least 48 hours before the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Board meeting and to provide any required accommodations, auxiliary aids, or services.

Please contact the Superintendent's Administrative Assistant, Kim Gomez, at 408-923-1815, for assistance with filing a written request to exclude a student or parent's name and information from the board meeting minutes. (Education Codes 49061, 49073.2).

**THREE YEAR EXPULSION PLAN BETWEEN THE
BERRYESSA UNION SCHOOL DISTRICT
&
SANTA CLARA COUNTY OFFICE of EDUCATION
FOR THE
IMPLEMENTATION
OF
EDUCATION CODES 48916.1 and 48926**

Berryessa Union School District

APR 13 2021

Board Approved

Developed by
Berryessa Union School District Education Services Department

2021-2024
Berryessa Union School District – 1376 Piedmont Road
San Jose, CA 95132-2498 (408.923.1830)

BOARD APPROVED: TBD

INTRODUCTION

California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of the school districts within the county, to develop a plan for providing educational services to all expelled students in that specific county. The plan is to be approved by each local governing board as well as by the county board of education. The plans are then submitted to the State Superintendent of Public Instruction. A triennial update is required.

EDUCATION CODES

Education Code – 48926

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils; identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendent of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

Education Code – 48916.1

- (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.
- (b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.
- (c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.
- (d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12 inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e) (1) Each school district shall maintain the following data.

- (A) The number of pupils recommended for expulsion.
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of the expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

BERRYESSA SCHOOL DISTRICT PLAN

Current Interventions Utilized Prior to Suspension or Expulsion

Berryessa has seen a decline in the number of suspensions and expulsions in the last three years. Prior to a student being suspended, schools implement other means of correction actions specific to the type of offense committed and that address each students' individual needs. Examples of other means of correction include but are not limited to, a parent conference, student counseling, participation in a social skills group, behavior contracts, mentoring support, research projects & presentations, and restorative circles.

Six schools in the district are implementing the school wide intervention program Positive Behavior Interventions & Supports (PBIS).

The District is currently developing a Multi-Tiered Systems of Support (MTSS) Manual to be used district wide. This framework will be used to support students with academic as well as with social emotional and behavioral needs. In an effort to be consistent across the district with discipline and restorative practices a Behavior Matrix that is aligned with PBIS best practices is also being developed. The District has also undertaken work in the area of equity, culturally relevant teaching and trauma informed practices to make sure certain groups of students are not disproportionately receiving exclusionary discipline and being suspended or expelled.

Existing Educational Alternatives for Expelled Youth

Berryessa Union School District located in Santa Clara County offers the following options for expelled youth, depending on the specific offense and Education Code violation:

1. a suspended expulsion with placement on the same school campus;
2. a suspended expulsion with placement on a different school campus within the district;
3. expulsion with referral to the Santa Clara County Office of Education Community School Day Program;
4. expulsion with home instruction;
5. expulsion with subsequent transfer to another district;
6. expulsion with placement in a Non-Public School per an IEP team decision.

The District's Board of Trustees makes the actual decision to such a placement after considering the recommendations from the District's Expulsion Panel.

Gaps in Educational Services and Strategies for Filling Those Gaps

There are major gaps that exist in respect to providing educational services to expelled pupils.

1. It is possible under Education Code 48916.1 that a student would not be expelled. As an example, a student who has been expelled for the district under Education Code 48915

and referred to a county Community Day School or Community School Program could commit another violation of Education Code 48915 and ultimately be referred back to the original district.

Berryessa Union School District's strategy for addressing this gap: Student would be placed on full time independent study with SCCOE or another district. If special education needs exist, the IEP team would convene to determine placement for the student in the least restrictive environment.

2. Students in grades one through six who are expelled do not have the same educational options available as do expelled youth who are in grades seven through twelve, due to the limited numbers of students who are expelled in these lower grades. These younger students cannot attend the programs designed for middle and high school students. The number of younger children being expelled is growing but generally there are not enough of them to develop an elementary school classroom or program.

Berryessa Union School District's strategy for addressing this gap: Students will attend a regional program or be referred to a different elementary school site within the district.

3. Transportation to appropriate programs may be an issue for some families. Many parents work and do not have the time or financial resources to transport their child across town to attend a community school.

Berryessa Union School District's strategy for addressing this gap: Bus passes are offered to the students as well as to an adult should a parent want to accompany their child to and from school.

Alternative Placements for Pupils Who Have Been Expelled

The district of residence continues to maintain responsibility for the expelled student. A rehabilitation plan is developed for the student and the student is referred to an appropriate educational setting either within or outside the school district.

Expelled students who are placed in an educational setting within the district and who fail to meet the terms and conditions of their rehabilitation plan may be referred to a different school, another district, or the Santa Clara County Office of Education Community School.

Expelled students who are referred to Santa Clara County Office of Education Community School shall develop an Individual Learning Plan with the students' parents and County Office of Education Staff. Part of this plan may include a goal of returning to the school district of residence after the district expulsion term. If students are not successful in the county-operated program, they are referred back to the district for review and replacement. The Director of Special Education and Student Services meets with the student and his/her family to discuss options.

Berryessa Union School District

Board Policy 5144.1

Suspension & Expulsion/Due Process

Regulation 5144.1

Suspension & Expulsion Due process

Regulation 5144.2

Suspension & Expulsion/Due Process
Students with Disabilities

Policy 5144.1: Suspension And Expulsion/Due Process

Status: ADOPTED

Original Adopted Date: 08/14/2018 | Last Revised Date: 05/14/2020 | Last Reviewed Date: 05/14/2020

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school

or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan

Regulation 5144.1: Suspension And Expulsion/Due Process

Status: ADOPTED

Original Adopted Date: 08/14/2018 | Last Revised Date: 05/14/2020 | Last Reviewed Date: 05/14/2020

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))
3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))

19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

Additional Grounds for Suspension and Expulsion: Grades 9-12

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

Suspension from Class by a Teacher

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension.

A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code 48915(c))

The Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency

situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

- a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.
- b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)
- c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)
- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the

remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent or principal shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication or other medication prescribed by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code

48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

1. Receive five days' notice of the scheduled testimony at the hearing
2. Have up to two adult support persons present at the hearing at the time the witness testifies
3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based

3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))
3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any

person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
 - a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person who is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - i. The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

- ii. At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.
 - iii. The person conducting the hearing may:
 - A. Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - B. Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours
 - C. Permit one of the support persons to accompany the complaining witness to the witness stand
6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these

3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

Regulation 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)

Status: ADOPTED

Original Adopted Date: 08/14/2018

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. 6159 - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.
 - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
 - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code 48915.5)

(cf. 3541.2 - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

a. Caused by or had a direct and substantial relationship to the student's disability

b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Board of Trustees' criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Education Code 49076)

(cf. 5131.7 - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC 1415(k)(5); 34 CFR 300.534)

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a

teacher of the student, that the student is in need of special education or related services.

2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC 1414(a)(1)(B) or 34 CFR 300.300-300.311.

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR 300.300-300.311, the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)



Cambrian School District
Governing Board of Trustees

REVIEW AGENDA ITEM

Agenda

<< Previous

Cambrian School District Updated Plan for Expelled Yo

Next Item >>

Print

Meeting Date: 4/1/2021 - 7:00 PM

Category: Information and Study Items

Type: Action

Subject: Cambrian School District Updated Plan for Expelled Youth 2021-24

District Priorities:

Enclosure

File Attachment:

PPT Plan for Expelled Youth 4.1.21.pdf

Cambrian Plan for Expelled Youth 4.1.21.pdf

Summary: Ms. Maggie Spehar, Director of Student Services, and Mr. Steven Fisher, Student Services Program Specialist, will provide an update and recommend changes for the Cambrian School District Plan for Expelled Youth (2021-24). Education Code Sections 48916.1 and 48926 requires school district governing boards to approve a triennial expulsion plan.

Funding:

Recommendation: Staff recommends the Board approve the Cambrian School District Plan for Expelled Youth (2021-24).

Approvals: **Recommended By:**

Signature

Signed By: Carlena Grandey - Administrative Assistant to the Superintendent

Signature

Signed By: Dr. Carrie Andrews - Superintendent

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Cambrian School District

Plan for Expelled Youth
2021-2024

A JOINT PLAN

BETWEEN

THE CAMBRIAN SCHOOL DISTRICT

AND

THE COUNTY OFFICE OF EDUCATION

FOR

THE IMPLEMENTATION OF

EDUCATION CODES 48916.1 AND 48926

Developed by

CAMBRIAN SCHOOL DISTRICT

AND

SANTA CLARA COUNTY OFFICE OF EDUCATION

2021-2024

INTRODUCTION PAGE

CAMBRIAN SCHOOL DISTRICT PLAN FOR ALTERNATIVE EDUCATIONAL SETTING

Educational programs within Santa Clara County provide opportunities for students who are in need of traditional and/or alternative educational programs. Individual school districts offer a broad spectrum of service and the County Office of Education offers additional options. This combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

SANTA CLARA COUNTY OFFICE OF EDUCATION OVERVIEW

The Santa Clara County Office of Education will continue to provide an educational option for expelled students. This program is one that fits in the continuum of education care as outlined. The philosophy of each school district affects how the Santa Clara County Office of Education Community School program will meet the needs of that particular school district. The Community School is a permissive educational program that provides the local school districts with another education option for their expelled youth.

CAMBRIAN SCHOOL DISTRICT OVERVIEW

County Existing Educational Alternative Schools for Expelled Youth

The Santa Clara County Office of Education Court and Community School/Day Center program offers the following options for expelled youth:

1. Daily educational programs that range from 240-300 minutes per day in community classrooms.
2. Independent Study Program (IS) that requires students to complete a minimum of 20 hours of educational product.
3. Teen parent program.
4. Specific site names:

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Community Schools

Sunol grades 6-12

South County grades 6-12

CAMBRIAN SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES
FOR EXPELLED YOUTH

Cambrian School District located within Santa Clara County has the following intervention programs in place:

Title of Program/Activity	Activity	Grade Level
PBIS	School wide behavioral expectations and reinforcement system. School wide assemblies, lessons for each areas on campus, and tiered interventions	TK-8
MTSS	Multi-Tiered System of Supports	TK-8
SART/SST	Student Attendance Review Team/Student Study Teams	TK-8
SARB	Student Attendance Review Board	TK-8
Cambrian Mental Health Wellness	General education counseling for students in need of mental health support. Referred through the SST process	TK-8
SEL Curriculum	Second Step in elementary schools and Habitudes in middle school	TK-8

Cambrian School District offers the following options for expelled youth, depending on the specific offense and Educational Code violation:

1. Suspended expulsion with placement on different school campus within the District;
2. Suspended expulsion with placement on a different school campus on a neighboring District (Union School District), with the Superintendent's or his/her designee's approval;
3. Expulsion with referral to the Santa Clara County Office of Education court and community School/Day Center Program;

Recommendations for expelled students and placement take the following information into consideration:

- The student's age
- The student's academic, attendance and discipline history
- Parental involvement in the student's rehabilitation plan

The decision to place students in an alternative placement and actual referral to such a placement is recommended to the Superintendent by the Director of Student Services. All expulsions must be approved by the Cambrian School District Governing Board and must be aligned to State Education Code and

Cambrian School District Board policy.

SANTA CLARA COUNTY AND CAMBRIAN SCHOOL DISTRICT
GAPS AND STRATEGIES IN EDUCATION SERVICES

These were the major gaps that were identified in 2018 in respect to providing education services to expelled pupils. Following each gap are the Santa Clara COE/Cambrian strategy for addressing these gaps and our success in addressing those gaps:

1. It is possible under Education Code 48916.1a that a student who has been expelled from the Cambrian District under Education Code 48915 and referred to either a district Community Day School or a County operated Community School program could commit another violation of Education Code 48915 and ultimately be referred back to the Cambrian District.
 - a. Santa Clara County/Cambrian strategy for addressing this gap:
Cambrian has the option to refer to other District/County Community Day Schools if the program is appropriate
 - b. Evaluation of success in addressing this gap:
Cambrian School District built relationships with district/county community day schools and feels confident we could use these relationships to address this identified gap. Additionally, Cambrian School District has implemented a deescalation training program utilizing the Safety Care curriculum to train administrators, teachers, and other staff. Staff are trained to de escalate potentially volatile situations and allow students to reintegrate into the school community.

2. Students who have failed their placement in County Community Day School may be referred to other county operated programs. If the student fails this program or commits another expulsion type offense there may not be any viable alternatives remaining.
 - a. Santa Clara County/Cambrian strategy for addressing this gap:
The Santa Clara County Office of Education will continue to provide educational services to those eligible students placed or referred to the Court and Community School/Day Center program.
 - b. Evaluation of success in addressing this gap:
Cambrian is committed to supporting students by developing an individualized restorative justice practices to have success in the recommended program and potentially returning to the Cambrian School District. Each student will have an individualized plan with measurable goals with benchmarks to evaluate their progress.

Cambrian will continue to explore existing educational strategies and programs to meet the needs of expelled students.

1. Students in grades one through six who are expelled do not have the same educational options available as do expelled youth who are in grades seven through eight, due to the limited numbers of students who are expelled in these lower grades. The younger students cannot attend the programs designed for middle and high school students. The numbers are growing within the county, but generally are not enough to develop an elementary school program.

Santa Clara County/Cambrian strategy for addressing this gap:

- Cambrian School District is exploring partnerships with district in SELPA III to support the alternative placement options to expelled K-8 students.
- Cambrian School District is exploring Blended Learning and/or Independent Study Program for grades K-6.

District strategy for addressing this gap:

- Cambrian School District developed a Student Attendance Review Team (SART) at the site level and a Student Attendance Review Board (SARB) for district level interventions to analyze student needs and suggest alternatives.

Cambrian School District Board Policies on Expulsion

STUDENTS

Suspension and Expulsion/Due Process Definitions

Policy 5144.1

Adopted: March 22, 2005

The Governing Board recognizes that maintaining an environment that promotes learning and protects the health, safety, and welfare of all students may require the suspension or expulsion of a student from regular classroom instruction. District policies and school site rules shall clearly identify district behavior standards.

Except in cases where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is usually used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to other students. (Education Code 48915)

The grounds for suspension and expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in Board Procedure.

Each principal shall annually inform all students and parents/guardians of the school's discipline rules and procedures and of the availability of all district policies and regulations dealing with student discipline, suspension and expulsion. (Education Code 35291, 35291.5)

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the suspension or expulsion.

Student Due Process

The Board shall provide for the fair treatment of student facing suspension and expulsion by affording them their due process rights under the law. The administration and staff shall comply with procedures for notices and appeals as specified in regulation. Procedures governing student due process shall conform in all aspects to provisions in law.

Suspension and Expulsion/Due Process

Whenever a student is suspended, school officials may (but are not required to) meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is suspended from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was suspended may require the student's parent/guardian to attend a portion of a school day in that day. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee.

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may consider informing the parent/guardian about available resources that may provide help in parenting skill development. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

Parental attendance may be required on the day the student returns to class or within *one week* thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school. The Board recognizes that parental compliance with this policy may be delayed, modified or prevented by serious illness/injury/ disability, absence from town, or inability to get certain release time from work.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who actually lives with the student.

District regulations and school site rules for student discipline shall include procedures for implementing parental attendance requirements.

Parents/guardians shall be notified of this policy before it is implemented and at the beginning of each subsequent school year.

STUDENTS

Suspension and Expulsion/Due Process

I. Definitions

Procedure 5144.1

Adopted: March 22, 2005

Suspension from school means removal of a student from ongoing instruction for adjustment purposes.

Suspension does not mean reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level; referral to a certificated employee designated by the principal to advise students; removal from the class, but without reassignment to another class or program, for the remainder of the period, without sending the student to the principal or designee.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel.

Day means a calendar day unless otherwise specifically provided.

School day means a day upon which the schools of the District are in session or weekdays during the summer recess. *Student* includes a student's parent/guardian.

Principal's designee means one or more administrator or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary Procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office.

II. Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parent/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment.

Notification shall include information about the ongoing availability of individual school rules and all District policies and regulations pertaining to student discipline.

III. Grounds for Suspension and Expulsion

A. Students may be suspended or recommended for expulsion when the Superintendent, principal, or principal's designee at the school in which the student is enrolled determines that the student has done any of the acts listed below (Education Code 48900):

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense.
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.

The principal or designee shall notify law enforcement authorities about any student in

- possession of weapons and any acts of assault by a student with a firearm or other deadly weapon or instrument. Any school employee is authorized to confiscate a weapon, dangerous instrument or imitation firearm from any person on school grounds.
3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.
 4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid, substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.
 5. Committed or attempted to commit robbery or extortion.
 6. Caused or attempted to cause damage to school property or private property.
 7. Stole or attempted to steal school property or private property.
 8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products.
 9. Committed an obscene act or engaged in habitual profanity or vulgarity.
 10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5.
 11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
 12. Knowingly received stolen school property or private property.
 13. Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
 14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4.
 15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness an/or retaliating against that student for being a witness.
 16. Made terrorist threats against school officials and/or school property.

A student in grades 4 through 8 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

17. Committed sexual harassment as defined in Education Code 212.5.
 18. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence.
 19. Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment.
- B. A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any District school under the

jurisdiction of the Superintendent or principal or within any other school district, including but not limited to the following circumstances:

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

Alternatives to suspension or expulsion will be used with students who are truant, tardy, or otherwise absent from assigned school activities.

- C. Upon recommendation by the Superintendent, principal or principal's designee, the governing board may order a pupil expelled upon finding that the student committed an act listed in items 1-19 above. A decision to expel shall be based on a finding of one or both of the following:
 1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 2. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.
- D. The governing board shall refer a pupil who has been expelled pursuant to subsection B or C to a program of study which meets all of the conditions specified in subdivision D. Notwithstanding this subdivision, with respect to a pupil expelled pursuant to this subdivision E, if the county Superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive school, the pupil may be referred to a program of study that is provided at a comprehensive school.

V. Authority to Suspend

A *teacher* may suspend any student from the teacher's class for any of the acts listed under "Grounds for Suspension and Expulsion" above for the day of the suspension and the day following.

A *Superintendent, principal, or principal's designee* may suspend a student from a school for any of the acts listed under "Grounds for Suspension and Expulsion" above for not more than five consecutive school days. A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 school days in any school year.

Suspension may be imposed upon a first offense if the principal determines the student violated items 1-19 of the list and the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

VI. Suspension Procedures

A. Suspension from Class by a Teacher/Parental Attendance

Suspension from class means the removal of a student from class by a teacher for the day of the suspension and the next day. A teacher may suspend a student from class and may also refer a student for consideration of suspension from school for any act listed in "Grounds for Suspension and Expulsion" above. When suspending a student, the teacher shall immediately report this action to the principal and send the student to the principal for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been suspended.

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist should attend the conference if it is practicable, and a school administrator may attend if either the parent/guardian or teacher so request.

A suspended student shall not be returned to class during the period of suspension without the approval of the teacher of the class and the principal.

A student suspended from class shall not be placed in another regular class during the period of suspension. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was suspended.

The teacher of any class from which a student is suspended may require the suspended student to complete any assignments and tests missed during the suspension.

When a teacher requires a parent/guardian to attend school in accordance with Board policy, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is required pursuant to law.

The teacher shall remind the parent/guardian to meet with the principal or designee after completing the classroom visit and before leaving school premises.

B. Suspension by Superintendent, Principal, or Principal's Designee

Mandatory Recommendation and Mandatory Expulsion: the Superintendent, principal or designee shall recommend that the Board expel any student found at school or at a school activity to be:

1. Possessing, as verified by a District employee, or selling or otherwise furnishing a firearm unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.
2. Brandishing a knife, as defined in Education Code 48915(g), at another person.
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058.
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in subdivision (n) of Education Code 48900.

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines the student violated items 1-19 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion.

1. Informal Conference

Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent between the student, and whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her and shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If the pre-suspension conference is not held, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school.

2. Administrative Actions

All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior.

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

3. Notice to Parents/Guardians

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911) This notice shall state the reasons for suspension and the date and time when the student may return to school. Should school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may also add that state law requires the parent/guardian to respond to such request without delay.

4. Parent/Guardian Conference

Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters. (EC 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such conference. The student may not be denied readmission solely because the parent/guardian failed to attend.

5. Extension of Suspension

If the expulsion of a suspended student is being considered by the Board, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (EC 48911 (g))

This extension may be made only if the Superintendent or designee has determined, following a meeting with the student and the student's parent/guardian, that the student would endanger persons or property or threaten to disrupt the instructional process. Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold an additional conference concerning the extension, giving the student a further opportunity to be heard. (EC 48911 (g))

C. Suspension by the Board

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it may hold closed sessions if a public hearing would lead to disclosure of information which would violate a student's right to privacy under Education Code 49073 et seq.

However, the Board shall provide the student with written notice of the closed session by registered or certified mail and the student may request a public meeting. The request shall be granted if made in writing within 48 hours after receipt of the Board's notice.

However, any discussion that conflicts with any other student's right to privacy shall be in closed session.

VII. Authority to Expel

- A. A student may be expelled only by the Board.
- B. The principal, Superintendent or designee shall recommend a student's expulsion for any of the following acts, unless the principal or Superintendent finds and reports in writing to the Board, that expulsion is inappropriate due to particular circumstances which shall be set out in the report of the incident:
 1. Causing serious physical injury to another person, except in self-defense.

2. Possession of any firearm, knife, explosive or other dangerous object of no reasonable use to the student at school or at a school activity off school grounds.
 3. Unlawful sale of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
 4. Robbery or extortion.
- C. The Board may order a student expelled for any of the acts listed under "Grounds for Suspension and Expulsion" above upon recommendation by the principal, Superintendent, hearing officer or administrative panel finding that the student violated items 1 - 19 of the list, and other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others.

VIII. Expulsion Procedures

A. Student's Right to Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred.

The student is entitled to one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion.

If the Board finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

B. Written Notice of the Hearing (Education Code 48922(b))

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include all of the following:

1. The date and place of the hearing.

2. A statement of the specific facts and charges upon which the proposed expulsion is based.
3. A copy of the disciplinary rules of the District that relate to the alleged violation.
4. A notice of the parent, guardian, or pupil's obligation pursuant to Education Code 48915.1, subsection b.
5. Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. In a hearing in which a pupil is alleged to have committed or attempted to commit a

sexual assault or sexual battery as defined in EC 48900, a complaining witness shall be given five days' notice before being called to testify, and shall be entitled to have up to two adult support persons, including but not limited to a parent, guardian, or legal counsel, present during their testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

C. Conduct of Hearing.

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public hearing. If such request is made, the meeting shall be public. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to determine if the student should be expelled. If the Board admits any other person to the closed session, the parent/guardian, the student, counsel of the student and counsel of the parent/guardian shall also be allowed to attend the closed session. (Education Code 48922(c))
2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, so long as a reasonably accurate written and complete transcription of the proceedings can be made.
3. Presentation of Evidence: While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel must be supported by substantial evidence that the student committed any of the above acts listed under "Grounds for Suspension and Expulsion" above. Findings of fact shall be based solely on the evidence at the hearing. While no evidence shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure may subject them to an unreasonable risk of harm. (Education Code 48922(f), (h))
4. Decision Within Ten Days: The Board's decision on whether to expel a student shall be made within ten school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed.
5. Decision Within 40 Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918a))

D. Alternative Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified in "Conduct of Hearing" above.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated. (See "Reinstatement" below)

If expulsion is recommended, finding of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order.

The hearing officer or administrative panel may recommend that the Board suspend the expulsion for a period of one year. (See "Suspension of Expulsion" below.)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed.

E. Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel must be taken by the Board at a public meeting. The Board shall maintain a record of each expulsion, including its cause. Expulsion records shall be non-privileged, disclosable public records.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the District. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis.

The Board may recommend a plan for the student's rehabilitation, which may include:

1. Periodic review and assessment at the time of application for readmission.
2. Recommendations for counseling, employment, community service and other rehabilitation programs.
3. Such other recommendations as the Board approves.

With parental consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (EC 48916.5)

F. Reinstatement

When the Board accepts a recommendation against expulsion or makes its own decision

after the hearing not to expel, the decision is final and the student shall be reinstated immediately. The Superintendent or designee shall place the student in any classroom program, other instructional program, rehabilitation program, or any combination of such programs following consultation with District personnel, including the teacher involved, and with the student's parent/guardian.

G. Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal such expulsion to the County Board of Education.

The notice also shall inform the student or parent/guardian of his/her obligation to inform any new District in which the student seeks to enroll of the student's status with the expelling District, pursuant to Education Code 48915.1.

IX. Readmission

An expulsion order shall remain in effect until the Board may order the readmission of the student. Readmission Procedures shall be as follows:

- A. A written request for review of expulsion action and request for readmission shall be submitted by the parent/guardian to the Superintendent or designee.
- B. The Superintendent or designee will hold a conference with the parent/guardian and the student.

At the conference the conditions for readmission will be reviewed. The Superintendent or designee shall verify that the conditions have been met. School regulations will be reviewed and the student and parent/guardian will be asked to indicate in writing their willingness to comply with these regulations.

- C. The Superintendent or designee will transmit the request for readmission to the Board, along with his/her recommendation. The Board may consider the request in closed session or in open session. If a written request for open session is received from the student or the parent/guardian, it will be honored.
- D. The Superintendent or designee will notify the student or parent/guardian, by registered mail, of the Board's decision regarding readmission.

X. Suspension of Expulsion

- A. The Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year and may, as a condition of the suspension of enforcement assign the student to a school, class or program appropriate for the student's rehabilitation. When deciding whether to suspend an expulsion, the Board shall take into account the following criteria:
 - 1. The student's previous behavior
 - 2. The seriousness of the misconduct.
 - 3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program.
- B. During this period the student shall be on probationary status.

- C. The suspension of expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the District's rules and regulations governing student conduct.
- D. When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
- E. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a District school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings.
- F. Suspension of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. The appeal must be filed within 30 days of the Board's decision to expel.
- G. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board.

XI. Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

XII. Maintenance of Records

The Board will maintain a record of each expulsion, including the cause therefore. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls, within five days of a written request by the admitting school.

The Superintendent or designee shall, within five working days, honor any other District's request for information about an expulsion from this District.

XIII. Notifications and Reports

A. Notice to Law Enforcement Authorities

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind.

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student possession of weapons or firearms in violation of Penal Code 626.9 and 626.10.

B. Reports to California Department of Education

On forms supplied by the California Department of Education, principals or designees shall regularly submit to the Superintendent or designee a completed report of student suspensions and expulsions. The Superintendent or designee shall compile this information and submit the aggregated district data to the

California Department of Education in accordance with timelines established in law.

INDIVIDUALS WITH EXCEPTIONAL NEEDS

I. Suspension

A student enrolled in a special education program is subject to the same grounds for suspension which apply to non-handicapped students.

All the procedural safeguards established by District policies and regulations shall be observed in considering the suspension of special education students including the requirement that, depending on the disruptiveness of the conduct, some form of in school intervention be used prior to suspension to show that suspension was imposed only when other means of correction failed to bring about proper conduct.

The Superintendent or designee may suspend a special education student for up to, but not more than, ten days for a single incident of misconduct, without the agreement of the parent/guardian or a court order. In the case of a truly dangerous child, a suspension may exceed ten days, or the student's placement may be changed, or both, if the parent/guardian so agrees or if a court order so provides.

II. Expulsion

The Board may expel a special education student only if an individualized education program team has determined that 1) the misconduct was not caused by, or a direct manifestation of, the student's identified handicap; and 2) the student was appropriately placed at the time the misconduct occurred.

- A. The IEP team meeting shall be held to determine if an expulsion hearing is appropriate. This meeting shall determine the manifestation and placement issues indicated above. The IEP shall be held as soon as possible after a recommendation to expel.
- B. The parent/guardian shall be notified of his/her right to participate in the meeting at least 48 hours before the meeting. His/her request that the meeting be postponed shall be granted for up to three additional school days. The District may extend any suspension of the student for the period of postponement. However, the suspension shall not be extended beyond ten days unless agreed to by the parent/guardian.
- C. Unless a parent/guardian has requested a postponement, the meeting may be conducted without the parent/guardian's participation.
- D. The IEP team shall also review and consider the student's health records and school discipline records.
- E. If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the student's handicapping condition, and if it is determined that the student was appropriately placed, the student shall be subject to the applicable disciplinary actions and procedures prescribed for suspension and expulsions of all students.
- F. The parent of each student with previously identified exceptional needs has a right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the IEP team.

- G. If the state's special education due process hearing is initiated by the parent/guardian due to a disagreement with the IEP team recommendations, the District shall cooperate with the State Department of Education towards achieving an expeditious resolution to the disagreement.
- H. If a parent demands a due process hearing concerning the IEP determination, the student shall remain in his current placement pending resolution of the due process proceeding unless:
 - 1. He/she has been suspended for up to, but not more than, ten days because he/she poses an immediate threat to the safety of others.
 - 2. The student and his/her parents agree to a change in placement.
 - 3. A court order has been obtained permitting such a change in placement.
 - 4. The change is a "minor" change in program or services rather than a "significant" change in placement. (Doe v. Maher)
- I. Parental consent is not required prior to conducting a pre-expulsion educational assessment or as a condition of the final decision to expel.

III. Readmission

Readmission Procedures shall parallel those used for non-handicapped students and also shall include the following provisions:

- A. The Board shall include input from the IEP team when developing a recommended rehabilitation plan for an expelled special education student.
- B. The Superintendent or designee who confers with the parent/guardian and the expelled special education student regarding readmission may also consider the comments of the student's IEP team when developing recommendations to the Board regarding a request for readmission.

IV. Suspension of Expulsion

The Board's criteria for suspending the enforcement of an expulsion order shall be applied to special education students just as they are applied to regular students.

CAMBRIAN DISTRICT/COUNTY PLAN FOR EXPELLED YOUTH

Education code – 68926:

Each county superintendent or schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school district within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing education alternative for expelled pupils, identify gaps in education services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils as determined by the governing board.

Each county superintendent of schools in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing education services to all expelled pupils in the county no later than May 1, 2018, and shall submit a triennial update to the plan to the Superintendent of public Instruction including the outcome data pursuant to Section 48916.1.

Education Code – 48916.1

- a. At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion but only to the extent funds are appropriate for this purpose in the annual Budget Act or other legislation, or both.



Campbell Union School District

Regular Meeting

04/22/2021

Closed Session - 5:30 P.M. | Regular Session -6:30P.M.

Monroe Middle School PLC

The April 22, 2021 Campbell Union School District Board Meeting will be held in-person at the Monroe Middle School PLC 1055 South Monroe, San Jose. PLC entrance is located on S. Genevieve Lane.

All participants will be required to follow COVID-19 safety protocols, including wearing a face covering and observing 6 ft. social distancing.

Virtual attendance for this meeting will be available for viewing only through the following link: [April 22, 2021](#)

Please see instructions below on how to provide public comment.

Those attending the meeting in-person and wishing to address the Board, will need to fill out a [Citizens Request To Speak Form](#). This form will be made available electronically at 5:30 p.m. the evening of the meeting and will close at 6:20 p.m. A print version will also be available at the meeting site at the start of the meeting.

Those not attending the meeting in-person and wishing to address the Board, will need to email their comments to contact@campbellusd.org no later than 6:20 p.m. the evening of the meeting. Comments will be read into the record with the time limitations outlined below.

Comments pertaining to any item on the agenda will be taken when that item is under consideration as it appears on the agenda, prior to any action taken by the Board.

Comments pertaining to any item not appearing on the agenda will be taken during the Oral Communications section of the agenda.

All communications will be limited to three (3) minutes per comment and twenty (20) minutes per topic.

Individuals who require special accommodation, including but not limited to an American Sign Language interpreter, should contact ptushak@campbellusd.org at least two days before the meeting.

1. CALL TO ORDER

2. CLOSED SESSION

1. Confer with Labor Negotiator Lena Bundtzen re: C.E.T.A. & C.S.E.A. CH 868 Negotiations (Govt. Code §3549.1 & 54957.6)
2. Conference with Legal Counsel - Anticipated Litigation (Govt. Code §54956.9(d)(2)) – One matter
3. Public Employee Discipline/Dismissal/Release/Complaint (Govt. Code §54957)
4. Public Employee Performance Evaluation: Superintendent

3. REGULAR SESSION

4. FLAG SALUTE

5. ADOPT AGENDA

6. REPORT OF ACTION TAKEN IN CLOSED SESSION

7. REPORTS OF THE GOVERNING BOARD

1. Reports on visits to schools, conferences/meetings attended and other activities.
2. Subcommittee Reports

8. REPORTS OF THE SUPERINTENDENT

9. COMMUNICATIONS

1. Written Communications
2. Oral Communications

10. INFORMATION AND POSSIBLE ACTION ITEMS

1. In-Person Reopening Update
2. CSI and Sherman Oaks Middle School Grade Expansion Update

11. ACTION ITEMS - CONSENT AGENDA

1. Minutes Regular Session April 1, 2021
2. Minutes Special Session April 13, 2021
3. Resolution 2020-21-13 Compensation For Members Of The Governing Board Under Education Code Section 35120(c) For Absence Due To Hardship
4. Resolution 2020-21-14, Disposition Of Surplus Property
5. Expenditure, Purchase Order, and Payroll Reports – March 2021
6. Attention2Attendance (A2A) Software & Services Agreement between School Innovations & Achievement and Campbell Union Elementary School District.
7. Authorization to Purchase Playground Equipment for Rosemary FLC
8. Change Order No. 1 with 101 Builders for CSI
9. Change Order No. 2 with 101 Builders for CSI
10. Change Order No. 3 with 101 Builders for CSI
11. Authorization to Bid: Lynhaven Fire Alarm Upgrade
12. Authorization to Bid: Utility Upgrades and Building L&S Modernization at Forest Hill
13. Authorization to Bid: Rosemary FLC Shade Structure and Playground
14. Installation of Solar Panels at Corp Yard
15. Agreement Between Campbell Union School District And Studer Education
16. Agreement between District and Rhythm and Moves, Inc. for the 2020-2021 school year
17. Personnel Report
18. Instructional Materials - Williams Uniform Complaint Quarterly Report
19. Donations
20. Campbell Union School District Expulsion Plan 2021-2024

12. ACTION ITEMS - REGULAR AGENDA

1. CSBA Delegate Assembly Run-off Election: Region 20
2. Resolution No. 2020-21-12 Resolution Of Governing Board Of Campbell Union School District
Condemning Surge In Violence And Hate Targeting Asian Americans

13. UPCOMING CALENDAR DATES

14. FUTURE AGENDA ITEMS: FOLLOW-UP FROM PREVIOUS MEETINGS

15. CLOSED SESSION

16. ADJOURNMENT



Cambrian School District

Plan for Expelled Youth
2021-2024

A JOINT PLAN

BETWEEN

THE CAMBRIAN SCHOOL DISTRICT

AND

THE COUNTY OFFICE OF EDUCATION

FOR

THE IMPLEMENTATION OF

EDUCATION CODES 48916.1 AND 48926

Developed by

CAMBRIAN SCHOOL DISTRICT

AND

SANTA CLARA COUNTY OFFICE OF EDUCATION

2021-2024

INTRODUCTION PAGE

CAMBRIAN SCHOOL DISTRICT PLAN FOR ALTERNATIVE EDUCATIONAL SETTING

Educational programs within Santa Clara County provide opportunities for students who are in need of traditional and/or alternative educational programs. Individual school districts offer a broad spectrum of service and the County Office of Education offers additional options. This combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

SANTA CLARA COUNTY OFFICE OF EDUCATION OVERVIEW

The Santa Clara County Office of Education will continue to provide an educational option for expelled students. This program is one that fits in the continuum of education care as outlined. The philosophy of each school district affects how the Santa Clara County Office of Education Community School program will meet the needs of that particular school district. The Community School is a permissive educational program that provides the local school districts with another education option for their expelled youth.

CAMBRIAN SCHOOL DISTRICT OVERVIEW

County Existing Educational Alternative Schools for Expelled Youth

The Santa Clara County Office of Education Court and Community School/Day Center program offers the following options for expelled youth:

1. Daily educational programs that range from 240-300 minutes per day in community classrooms.
2. Independent Study Program (IS) that requires students to complete a minimum of 20 hours of educational product.
3. Teen parent program.
4. Specific site names:

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Community Schools

Sunol grades 6-12

South County grades 6-12

CAMBRIAN SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES
FOR EXPELLED YOUTH

Cambrian School District located within Santa Clara County has the following intervention programs in place:

Title of Program/Activity	Activity	Grade Level
PBIS	School wide behavioral expectations and reinforcement system. School wide assemblies, lessons for each areas on campus, and tiered interventions	TK-8
MTSS	Multi-Tiered System of Supports	TK-8
SART/SST	Student Attendance Review Team/Student Study Teams	TK-8
SARB	Student Attendance Review Board	TK-8
Cambrian Mental Health Wellness	General education counseling for students in need of mental health support. Referred through the SST process	TK-8
SEL Curriculum	Second Step in elementary schools and Habitudes in middle school	TK-8

Cambrian School District offers the following options for expelled youth, depending on the specific offense and Educational Code violation:

1. Suspended expulsion with placement on different school campus within the District;
2. Suspended expulsion with placement on a different school campus on a neighboring District (Union School District), with the Superintendent's or his/her designee's approval;
3. Expulsion with referral to the Santa Clara County Office of Education court and community School/Day Center Program;

Recommendations for expelled students and placement take the following information into consideration:

- The student's age
- The student's academic, attendance and discipline history
- Parental involvement in the student's rehabilitation plan

The decision to place students in an alternative placement and actual referral to such a placement is recommended to the Superintendent by the Director of Student Services. All expulsions must be approved by the Cambrian School District Governing Board and must be aligned to State Education Code and

Cambrian School District Board policy.

SANTA CLARA COUNTY AND CAMBRIAN SCHOOL DISTRICT
GAPS AND STRATEGIES IN EDUCATION SERVICES

These were the major gaps that were identified in 2018 in respect to providing education services to expelled pupils. Following each gap are the Santa Clara COE/Cambrian strategy for addressing these gaps and our success in addressing those gaps:

1. It is possible under Education Code 48916.1a that a student who has been expelled from the Cambrian District under Education Code 48915 and referred to either a district Community Day School or a County operated Community School program could commit another violation of Education Code 48915 and ultimately be referred back to the Cambrian District.
 - a. Santa Clara County/Cambrian strategy for addressing this gap:
Cambrian has the option to refer to other District/County Community Day Schools if the program is appropriate
 - b. Evaluation of success in addressing this gap:
Cambrian School District built relationships with district/county community day schools and feels confident we could use these relationships to address this identified gap. Additionally, Cambrian School District has implemented a deescalation training program utilizing the Safety Care curriculum to train administrators, teachers, and other staff. Staff are trained to de escalate potentially volatile situations and allow students to reintegrate into the school community.

2. Students who have failed their placement in County Community Day School may be referred to other county operated programs. If the student fails this program or commits another expulsion type offense there may not be any viable alternatives remaining.
 - a. Santa Clara County/Cambrian strategy for addressing this gap:
The Santa Clara County Office of Education will continue to provide educational services to those eligible students placed or referred to the Court and Community School/Day Center program.
 - b. Evaluation of success in addressing this gap:
Cambrian is committed to supporting students by developing an individualized restorative justice practices to have success in the recommended program and potentially returning to the Cambrian School District. Each student will have an individualized plan with measurable goals with benchmarks to evaluate their progress.

Cambrian will continue to explore existing educational strategies and programs to meet the needs of expelled students.

1. Students in grades one through six who are expelled do not have the same educational options available as do expelled youth who are in grades seven through eight, due to the limited numbers of students who are expelled in these lower grades. The younger students cannot attend the programs designed for middle and high school students. The numbers are growing within the county, but generally are not enough to develop an elementary school program.

Santa Clara County/Cambrian strategy for addressing this gap:

- Cambrian School District is exploring partnerships with district in SELPA III to support the alternative placement options to expelled K-8 students.
- Cambrian School District is exploring Blended Learning and/or Independent Study Program for grades K-6.

District strategy for addressing this gap:

- Cambrian School District developed a Student Attendance Review Team (SART) at the site level and a Student Attendance Review Board (SARB) for district level interventions to analyze student needs and suggest alternatives.

Cambrian School District Board Policies on Expulsion

STUDENTS

Suspension and Expulsion/Due Process Definitions

Policy 5144.1

Adopted: March 22, 2005

The Governing Board recognizes that maintaining an environment that promotes learning and protects the health, safety, and welfare of all students may require the suspension or expulsion of a student from regular classroom instruction. District policies and school site rules shall clearly identify district behavior standards.

Except in cases where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is usually used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to other students. (Education Code 48915)

The grounds for suspension and expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in Board Procedure.

Each principal shall annually inform all students and parents/guardians of the school's discipline rules and procedures and of the availability of all district policies and regulations dealing with student discipline, suspension and expulsion. (Education Code 35291, 35291.5)

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the suspension or expulsion.

Student Due Process

The Board shall provide for the fair treatment of student facing suspension and expulsion by affording them their due process rights under the law. The administration and staff shall comply with procedures for notices and appeals as specified in regulation. Procedures governing student due process shall conform in all aspects to provisions in law.

Suspension and Expulsion/Due Process

Whenever a student is suspended, school officials may (but are not required to) meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is suspended from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was suspended may require the student's parent/guardian to attend a portion of a school day in that day. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee.

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may consider informing the parent/guardian about available resources that may provide help in parenting skill development. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

Parental attendance may be required on the day the student returns to class or within *one week* thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school. The Board recognizes that parental compliance with this policy may be delayed, modified or prevented by serious illness/injury/ disability, absence from town, or inability to get certain release time from work.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who actually lives with the student.

District regulations and school site rules for student discipline shall include procedures for implementing parental attendance requirements.

Parents/guardians shall be notified of this policy before it is implemented and at the beginning of each subsequent school year.

STUDENTS

Suspension and Expulsion/Due Process

I. Definitions

Procedure 5144.1

Adopted: March 22, 2005

Suspension from school means removal of a student from ongoing instruction for adjustment purposes.

Suspension does not mean reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level; referral to a certificated employee designated by the principal to advise students; removal from the class, but without reassignment to another class or program, for the remainder of the period, without sending the student to the principal or designee.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel.

Day means a calendar day unless otherwise specifically provided.

School day means a day upon which the schools of the District are in session or weekdays during the summer recess. *Student* includes a student's parent/guardian.

Principal's designee means one or more administrator or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary Procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office.

II. Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parent/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment.

Notification shall include information about the ongoing availability of individual school rules and all District policies and regulations pertaining to student discipline.

III. Grounds for Suspension and Expulsion

A. Students may be suspended or recommended for expulsion when the Superintendent, principal, or principal's designee at the school in which the student is enrolled determines that the student has done any of the acts listed below (Education Code 48900):

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense.
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.

The principal or designee shall notify law enforcement authorities about any student in

- possession of weapons and any acts of assault by a student with a firearm or other deadly weapon or instrument. Any school employee is authorized to confiscate a weapon, dangerous instrument or imitation firearm from any person on school grounds.
3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.
 4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid, substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.
 5. Committed or attempted to commit robbery or extortion.
 6. Caused or attempted to cause damage to school property or private property.
 7. Stole or attempted to steal school property or private property.
 8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products.
 9. Committed an obscene act or engaged in habitual profanity or vulgarity.
 10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5.
 11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
 12. Knowingly received stolen school property or private property.
 13. Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
 14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4.
 15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness an/or retaliating against that student for being a witness.
 16. Made terrorist threats against school officials and/or school property.

A student in grades 4 through 8 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

17. Committed sexual harassment as defined in Education Code 212.5.
 18. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence.
 19. Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment.
- B. A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any District school under the

jurisdiction of the Superintendent or principal or within any other school district, including but not limited to the following circumstances:

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

Alternatives to suspension or expulsion will be used with students who are truant, tardy, or otherwise absent from assigned school activities.

- C. Upon recommendation by the Superintendent, principal or principal's designee, the governing board may order a pupil expelled upon finding that the student committed an act listed in items 1-19 above. A decision to expel shall be based on a finding of one or both of the following:
1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 2. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.
- D. The governing board shall refer a pupil who has been expelled pursuant to subsection B or C to a program of study which meets all of the conditions specified in subdivision D. Notwithstanding this subdivision, with respect to a pupil expelled pursuant to this subdivision E, if the county Superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive school, the pupil may be referred to a program of study that is provided at a comprehensive school.

V. Authority to Suspend

A *teacher* may suspend any student from the teacher's class for any of the acts listed under "Grounds for Suspension and Expulsion" above for the day of the suspension and the day following.

A *Superintendent, principal, or principal's designee* may suspend a student from a school for any of the acts listed under "Grounds for Suspension and Expulsion" above for not more than five consecutive school days. A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 school days in any school year.

Suspension may be imposed upon a first offense if the principal determines the student violated items 1-19 of the list and the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

VI. Suspension Procedures

A. Suspension from Class by a Teacher/Parental Attendance

Suspension from class means the removal of a student from class by a teacher for the day of the suspension and the next day. A teacher may suspend a student from class and may also refer a student for consideration of suspension from school for any act listed in "Grounds for Suspension and Expulsion" above. When suspending a student, the teacher shall immediately report this action to the principal and send the student to the principal for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been suspended.

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist should attend the conference if it is practicable, and a school administrator may attend if either the parent/guardian or teacher so request.

A suspended student shall not be returned to class during the period of suspension without the approval of the teacher of the class and the principal.

A student suspended from class shall not be placed in another regular class during the period of suspension. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was suspended.

The teacher of any class from which a student is suspended may require the suspended student to complete any assignments and tests missed during the suspension.

When a teacher requires a parent/guardian to attend school in accordance with Board policy, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is required pursuant to law.

The teacher shall remind the parent/guardian to meet with the principal or designee after completing the classroom visit and before leaving school premises.

B. Suspension by Superintendent, Principal, or Principal's Designee

Mandatory Recommendation and Mandatory Expulsion: the Superintendent, principal or designee shall recommend that the Board expel any student found at school or at a school activity to be:

1. Possessing, as verified by a District employee, or selling or otherwise furnishing a firearm unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.
2. Brandishing a knife, as defined in Education Code 48915(g), at another person.
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058.
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in subdivision (n) of Education Code 48900.

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines the student violated items 1-19 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion.

1. Informal Conference

Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent between the student, and whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her and shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If the pre-suspension conference is not held, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school.

2. Administrative Actions

All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior.

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

3. Notice to Parents/Guardians

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911) This notice shall state the reasons for suspension and the date and time when the student may return to school. Should school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may also add that state law requires the parent/guardian to respond to such request without delay.

4. Parent/Guardian Conference

Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters. (EC 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such conference. The student may not be denied readmission solely because the parent/guardian failed to attend.

5. Extension of Suspension

If the expulsion of a suspended student is being considered by the Board, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (EC 48911 (g))

This extension may be made only if the Superintendent or designee has determined, following a meeting with the student and the student's parent/guardian, that the student would endanger persons or property or threaten to disrupt the instructional process. Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold an additional conference concerning the extension, giving the student a further opportunity to be heard. (EC 48911 (g))

C. Suspension by the Board

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it may hold closed sessions if a public hearing would lead to disclosure of information which would violate a student's right to privacy under Education Code 49073 et seq.

However, the Board shall provide the student with written notice of the closed session by registered or certified mail and the student may request a public meeting. The request shall be granted if made in writing within 48 hours after receipt of the Board's notice.

However, any discussion that conflicts with any other student's right to privacy shall be in closed session.

VII. Authority to Expel

- A. A student may be expelled only by the Board.
- B. The principal, Superintendent or designee shall recommend a student's expulsion for any of the following acts, unless the principal or Superintendent finds and reports in writing to the Board, that expulsion is inappropriate due to particular circumstances which shall be set out in the report of the incident:
 1. Causing serious physical injury to another person, except in self-defense.

2. Possession of any firearm, knife, explosive or other dangerous object of no reasonable use to the student at school or at a school activity off school grounds.
 3. Unlawful sale of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
 4. Robbery or extortion.
- C. The Board may order a student expelled for any of the acts listed under "Grounds for Suspension and Expulsion" above upon recommendation by the principal, Superintendent, hearing officer or administrative panel finding that the student violated items 1 - 19 of the list, and other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others.

VIII. Expulsion Procedures

A. Student's Right to Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred.

The student is entitled to one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion.

If the Board finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

B. Written Notice of the Hearing (Education Code 48922(b))

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include all of the following:

1. The date and place of the hearing.

2. A statement of the specific facts and charges upon which the proposed expulsion is based.
3. A copy of the disciplinary rules of the District that relate to the alleged violation.
4. A notice of the parent, guardian, or pupil's obligation pursuant to Education Code 48915.1, subsection b.
5. Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. In a hearing in which a pupil is alleged to have committed or attempted to commit a

sexual assault or sexual battery as defined in EC 48900, a complaining witness shall be given five days' notice before being called to testify, and shall be entitled to have up to two adult support persons, including but not limited to a parent, guardian, or legal counsel, present during their testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

C. Conduct of Hearing.

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public hearing. If such request is made, the meeting shall be public. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to determine if the student should be expelled. If the Board admits any other person to the closed session, the parent/guardian, the student, counsel of the student and counsel of the parent/guardian shall also be allowed to attend the closed session. (Education Code 48922(c))
2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, so long as a reasonably accurate written and complete transcription of the proceedings can be made.
3. Presentation of Evidence: While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel must be supported by substantial evidence that the student committed any of the above acts listed under "Grounds for Suspension and Expulsion" above. Findings of fact shall be based solely on the evidence at the hearing. While no evidence shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure may subject them to an unreasonable risk of harm. (Education Code 48922(f), (h))
4. Decision Within Ten Days: The Board's decision on whether to expel a student shall be made within ten school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed.
5. Decision Within 40 Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918a))

D. Alternative Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified in "Conduct of Hearing" above.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated. (See "Reinstatement" below)

If expulsion is recommended, finding of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order.

The hearing officer or administrative panel may recommend that the Board suspend the expulsion for a period of one year. (See "Suspension of Expulsion" below.)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed.

E. Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel must be taken by the Board at a public meeting. The Board shall maintain a record of each expulsion, including its cause. Expulsion records shall be non-privileged, disclosable public records.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the District. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis.

The Board may recommend a plan for the student's rehabilitation, which may include:

1. Periodic review and assessment at the time of application for readmission.
2. Recommendations for counseling, employment, community service and other rehabilitation programs.
3. Such other recommendations as the Board approves.

With parental consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (EC 48916.5)

F. Reinstatement

When the Board accepts a recommendation against expulsion or makes its own decision

after the hearing not to expel, the decision is final and the student shall be reinstated immediately. The Superintendent or designee shall place the student in any classroom program, other instructional program, rehabilitation program, or any combination of such programs following consultation with District personnel, including the teacher involved, and with the student's parent/guardian.

G. Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal such expulsion to the County Board of Education.

The notice also shall inform the student or parent/guardian of his/her obligation to inform any new District in which the student seeks to enroll of the student's status with the expelling District, pursuant to Education Code 48915.1.

IX. Readmission

An expulsion order shall remain in effect until the Board may order the readmission of the student. Readmission Procedures shall be as follows:

- A. A written request for review of expulsion action and request for readmission shall be submitted by the parent/guardian to the Superintendent or designee.
- B. The Superintendent or designee will hold a conference with the parent/guardian and the student.
At the conference the conditions for readmission will be reviewed. The Superintendent or designee shall verify that the conditions have been met. School regulations will be reviewed and the student and parent/guardian will be asked to indicate in writing their willingness to comply with these regulations.
- C. The Superintendent or designee will transmit the request for readmission to the Board, along with his/her recommendation. The Board may consider the request in closed session or in open session. If a written request for open session is received from the student or the parent/guardian, it will be honored.
- D. The Superintendent or designee will notify the student or parent/guardian, by registered mail, of the Board's decision regarding readmission.

X. Suspension of Expulsion

- A. The Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year and may, as a condition of the suspension of enforcement assign the student to a school, class or program appropriate for the student's rehabilitation. When deciding whether to suspend an expulsion, the Board shall take into account the following criteria:
 - 1. The student's previous behavior
 - 2. The seriousness of the misconduct.
 - 3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program.
- B. During this period the student shall be on probationary status.

- C. The suspension of expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the District's rules and regulations governing student conduct.
- D. When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
- E. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a District school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings.
- F. Suspension of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. The appeal must be filed within 30 days of the Board's decision to expel.
- G. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board.

XI. Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

XII. Maintenance of Records

The Board will maintain a record of each expulsion, including the cause therefore. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls, within five days of a written request by the admitting school.

The Superintendent or designee shall, within five working days, honor any other District's request for information about an expulsion from this District.

XIII. Notifications and Reports

A. Notice to Law Enforcement Authorities

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind.

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student possession of weapons or firearms in violation of Penal Code 626.9 and 626.10.

B. Reports to California Department of Education

On forms supplied by the California Department of Education, principals or designees shall regularly submit to the Superintendent or designee a completed report of student suspensions and expulsions. The Superintendent or designee shall compile this information and submit the aggregated district data to the

California Department of Education in accordance with timelines established in law.

INDIVIDUALS WITH EXCEPTIONAL NEEDS

I. Suspension

A student enrolled in a special education program is subject to the same grounds for suspension which apply to non-handicapped students.

All the procedural safeguards established by District policies and regulations shall be observed in considering the suspension of special education students including the requirement that, depending on the disruptiveness of the conduct, some form of in school intervention be used prior to suspension to show that suspension was imposed only when other means of correction failed to bring about proper conduct.

The Superintendent or designee may suspend a special education student for up to, but not more than, ten days for a single incident of misconduct, without the agreement of the parent/guardian or a court order. In the case of a truly dangerous child, a suspension may exceed ten days, or the student's placement may be changed, or both, if the parent/guardian so agrees or if a court order so provides.

II. Expulsion

The Board may expel a special education student only if an individualized education program team has determined that 1) the misconduct was not caused by, or a direct manifestation of, the student's identified handicap; and 2) the student was appropriately placed at the time the misconduct occurred.

- A. The IEP team meeting shall be held to determine if an expulsion hearing is appropriate. This meeting shall determine the manifestation and placement issues indicated above. The IEP shall be held as soon as possible after a recommendation to expel.
- B. The parent/guardian shall be notified of his/her right to participate in the meeting at least 48 hours before the meeting. His/her request that the meeting be postponed shall be granted for up to three additional school days. The District may extend any suspension of the student for the period of postponement. However, the suspension shall not be extended beyond ten days unless agreed to by the parent/guardian.
- C. Unless a parent/guardian has requested a postponement, the meeting may be conducted without the parent/guardian's participation.
- D. The IEP team shall also review and consider the student's health records and school discipline records.
- E. If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the student's handicapping condition, and if it is determined that the student was appropriately placed, the student shall be subject to the applicable disciplinary actions and procedures prescribed for suspension and expulsions of all students.
- F. The parent of each student with previously identified exceptional needs has a right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the IEP team.

- G. If the state's special education due process hearing is initiated by the parent/guardian due to a disagreement with the IEP team recommendations, the District shall cooperate with the State Department of Education towards achieving an expeditious resolution to the disagreement.
- H. If a parent demands a due process hearing concerning the IEP determination, the student shall remain in his current placement pending resolution of the due process proceeding unless:
 - 1. He/she has been suspended for up to, but not more than, ten days because he/she poses an immediate threat to the safety of others.
 - 2. The student and his/her parents agree to a change in placement.
 - 3. A court order has been obtained permitting such a change in placement.
 - 4. The change is a "minor" change in program or services rather than a "significant" change in placement. (Doe v. Maher)
- I. Parental consent is not required prior to conducting a pre-expulsion educational assessment or as a condition of the final decision to expel.

III. Readmission

Readmission Procedures shall parallel those used for non-handicapped students and also shall include the following provisions:

- A. The Board shall include input from the IEP team when developing a recommended rehabilitation plan for an expelled special education student.
- B. The Superintendent or designee who confers with the parent/guardian and the expelled special education student regarding readmission may also consider the comments of the student's IEP team when developing recommendations to the Board regarding a request for readmission.

IV. Suspension of Expulsion

The Board's criteria for suspending the enforcement of an expulsion order shall be applied to special education students just as they are applied to regular students.

CAMBRIAN DISTRICT/COUNTY PLAN FOR EXPELLED YOUTH

Education code – 68926:

Each county superintendent or schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school district within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing education alternative for expelled pupils, identify gaps in education services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils as determined by the governing board.

Each county superintendent of schools in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing education services to all expelled pupils in the county no later than May 1, 2018, and shall submit a triennial update to the plan to the Superintendent of public Instruction including the outcome data pursuant to Section 48916.1.

Education Code – 48916.1

- a. At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion but only to the extent funds are appropriate for this purpose in the annual Budget Act or other legislation, or both.

Evergreen School District

Three-Year Expulsion Plan

Between the

Evergreen School District

and

The Santa Clara County Office of Education

For the implementation of Education Code 48916.1

2021-2024





Evergreen School District

May 14, 2021

To: Katherine Everett, Ed.D.
Interim Director/Principal of Alternative Education
Santa Clara County Office of Education

From: Kim Kianidehkian
Director of Educational Services
Evergreen School District

Re: Three-Year Expulsion Plan Between the Evergreen School
District and The Santa Clara County Office of Education for
the implementation of Education Code 48916.1

At a meeting held on May 13, 2021 the Evergreen School District Board of Trustees approved the Three Year Expulsion Plan, which follows the Countywide Expulsion Plan developed by the Santa Clara County for the implementation of Education Code 48916.1.

Enclosures: Board agenda

cc: Dr. Emy Flores,

Superintendent

Evergreen School District



Evergreen School District

Thursday, May 13, 2021

**AMENDED - Regular Meeting Board of Trustees 5:00 p.m. will
convene to Closed Session Following Call to Order, 6:30 p.m.
Regular Open Session**

**THIS MEETING WILL BE HELD VIA TELECONFERENCE ONLY. PUBLIC MAY
BE ABLE TO LOG IN TO ZOOM (See Login Information below)**

Please click the link below to attend the Virtual Board Meeting:

When: May 13, 2021, 6:30 PM (Open Session)

PLEASE REGISTER IN ADVANCE TO ATTEND THIS BOARD MEETING:

<https://eesd.info/38x60e0>

**After registering, you will receive a confirmation email containing
information about joining the webinar.**

**Board of Trustees will meet via Zoom Video Conferencing per Shelter In
Place Order due to COVID-19**

**PUBLIC COMMENTS: IF ANY MEMBER OF THE PUBLIC WOULD LIKE TO
ADDRESS THE BOARD IN REGARDS TO A CLOSED OR OPEN SESSION
AGENDA ITEM(S), PLEASE SEND AN EMAIL TO boardroom@eesd.org
AND/OR raise your hand (Icon at the bottom of the screen). ON YOUR
EMAIL, PLEASE SPECIFY THE AGENDA ITEM YOU WOULD LIKE TO
ADDRESS, YOUR NAME, and STAKEHOLDER AFFILIATION. YOU WILL BE**

CALLED UPON IN THE ORDER THE EMAIL OR WERE RECEIVED.

The Board of Trustees welcomes public comments regarding district matters and encourages those in attendance to respect all viewpoints, as well as the right to speak when recognized. When making your comments, please address the Board of Trustees in a respectful way so that all in attendance, from children to adults, may participate.

PROTOCOL FOR THE BOARD OF TRUSTEES DURING VIRTUAL BOARD MEETINGS:

Virtual meetings will be held via Zoom. Please note that the screen you see on the Zoom screen will be visible to the public, with the exception of Closed Session. In addition...

Tech Support (Sam or Johanna) will MUTE all microphones with the exception of the Board President and Superintendent (Secretary Ex-Oficio) prior to entering the meeting and will keep them muted throughout the meeting unless Board members raise their hand and during voting. If a Board member would like to speak, they raise their hand, the icon is located at the bottom of your screen. As soon as the Board President acknowledges a Board member's intention to speak, he/she will be unmuted, thus enhancing meeting etiquette and avoiding random interruptions.

JOIN the meeting at least fifteen (15) minutes prior to the start time to assure all attendees are accounted for.

RECORDING - Regular Open Session will be recorded.

VOTING - All votes will be taken by roll call. Board member's microphones will be UNMUTED and must be HEARD when taking a vote.

PUBLIC COMMENTS - Members of the public may RAISE THEIR HAND if they would like to address the Board of Trustees on a particular agenda item or during Matters from the Public. The Board President will announce to notify the person who'll be addressing the Board. If participating via telephone, the telephone number shall be announced, please state your name and affiliation once your telephone number is announced. Public comments are limited to 3 minutes per speaker, and at the discretion of

the Board President.

BOARD MEMBERS COMMENTS - If a Board member would like to speak, they may raise their hand. Once he/she is recognized by the Board President, their microphone will be unmuted.

REPORTS / ENCLOSURES will be projected and a screen will be shared via Zoom. The public may view as long as they are logged in on a computer or mobile screen. Board enclosures and documents needed for the board meetings are also available through BoardDocs - <https://go.boarddocs.com/ca/eesd/Board.nsf/Public>

DISCONNECTION - If a Board Member gets disconnected and cannot regain connection to the meeting, as long as there are three Board members present, there is a quorum and the meeting may continue. Under Robert's Rules - adopted pursuant to Policy 203 - the presence of a quorum is presumed once it has been established at the beginning of a meeting. Thus, the Board may continue to conduct business until someone notes the lack of a quorum via a point of order, or the Board President notices that a quorum is no longer present. If a quorum is lacking, the Board may take a short recess until a quorum is regained, or the Board may take official action to set a time for a recessed meeting.

****Closed Session** may convene before, after, or during the regular meeting. Closed sessions may include; Negotiations, Personnel (Certificated, Classified, Management), Expulsions, and Litigation.

1. OPENING ITEMS

1.1 Roll Call / Quorum

1.2 Flag Salute

1.3 District Highlights

2. MATTERS FROM THE PUBLIC

2.1 Comments from the California School Employees Association (CSEA) Chapter 432 President

2.2 Comments from the Evergreen Teachers Association (ETA) President

2.3 Comments from the Public

3. CONSENT ITEMS (ACTION ITEMS)

3.1 Approval of Regular Board Meeting Minutes - April 15, 2021

3.2 Ratification of Contracts

3.3 Ratification of April Warrant List

3.4 Personnel Report

3.5 Approval of Resolution, 2021-22 Authorized Signatures - Payroll

3.6 Approval of Resolution, 2021-21 Authorized Signers

3.7 Approval: Resolution of the Evergreen School District Authorization Temporary Transfers Between District Accounts for Fiscal Year 2021-22

3.8 Approval of All Consent Items

4. REPORTS

4.1 Measure M Bond Oversight Committee Update

4.2 Measure P Bond, Technology & Safety Needs Assessment Report

5. ITEMS FOR IMMEDIATE DISCUSSION/ACTION

5.1 Approval of Resolution of the Board of Trustees of the Evergreen Elementary School District Authorizing the Issuance and Sale Not To Exceed \$32,050,000 Aggregate Principal Amount of Bonds of the District, by Public Sale, Prescribing the Terms of Sale, Approving the Form of and Authorizing the Execution and Delivery of a Continuing Disclosure Certificate, Approving the Form of and Authorizing the Distribution of an Official Statement and an Official Notice of Sale for the Bonds, and Authorizing the Execution of Necessary Documents and Certificates and Related Actions

5.2 Approval of Three (3) Year Contract, Nicole Anderson and Associates, Services for Professional Leadership Coaching On Equity

5.3 Approval of Expanded Learning Opportunities Grant Plan

5.4 Approval of Three (3) Year Expulsion Plan

6. PERSONNEL

6.1 Public Hearing on District's proposal to Evergreen Teachers Association for successor contract negotiations 2021-2022.

6.2 Approve District's Proposal to Evergreen Teachers Association for Successor Contract Negotiations in 2021-2022.

6.3 Accept Evergreen Teachers Association's Initial proposal to District for Successor Contract Negotiations (2021-2022)

6.4 Discussion and Possible Approval of Employment Contract with Cesar Torrico for Employment as Assistant Superintendent of Human Resources

6.5 Discussion and Possible Approval of Employment Contract with Deborah Ashmore for Employment as Assistant Superintendent of Educational Services

7. FUTURE AGENDA ITEMS

7.1 Discussion: Early Retirement Benefits Incentive Plan

8. FUTURE MEETINGS

8.1 June 10, June 16 (Special Board Meeting)

9. INFORMATION ITEMS

9.1 Superintendent Update

10. CLOSED ITEMS

10.1 Conference with Real Property Negotiators (§ 54956.8) Property: 3888 San Felipe Road, San Jose, CA, APN 660-23-015 Agency negotiator: Dr. Emy Flores, Superintendent; Eric Knowles, Kidder Mathews

10.2 Conference with Legal counsel – Existing Litigation Government Code Section 54956.9(d)(1) Katherine Gomez v. Evergreen S.D. (# 20-cv-03008-NC)

10.3 Public Employee Discipline/Dismissal/Release (Government Code Section 54957)

10.4 Conference with Labor Negotiators Agency designated representative: Dr. Emy Flores Unrepresented employees: Assistant Superintendent of Educational Services and Assistant Superintendent of Human Resources

10.5 Conference with Labor Negotiators (Gov. Code, section 54957.6) Agency Designated Representative: Cesar Torrico, Assistant Superintendent, Human Resources Employee Organization: California School Employees Association - CSEA Chapter 432

10.6 Conference with Labor Negotiators (Gov. Code, section 54957.6) Agency Designated Representative: Cesar Torrico, Assistant Superintendent, Human Resources Employee Organization: Evergreen Teachers Association (ETA)

10.7 Public Employee Performance Evaluation (Superintendent Evaluation) Pursuant to Government Code 54957

11. REPORT OF ACTION FROM CLOSED SESSION

12. ADJOURNMENT

13. New Category

Any writing that is a public record relating to an agenda item for an open session of a

regular meeting of the Board of Trustees distributed less than 72 hours prior to that meeting shall be available for public inspection at the time of distribution to the Board of Trustees in the District Office, 3188 Quimby Road, San Jose, CA 95148 (Amendment to 54956.5) A person with a disability may contact the District Office (408-270-6811) at least 24 hours before the scheduled Board meeting to request receipt of an agenda in an alternative format or to request disability-related accommodations, including auxiliary aids or services, in order to participate in the public Board meeting.

Closed Session may convene before, after or during the regular meeting. Closed session items may include: Negotiations, Personnel (Certificated, Classified, Management), Expulsions and Litigations.

**EVERGREEN SCHOOL DISTRICT PLAN-
EDUCATIONAL ALTERNATIVES FOR
EXPELLED STUDENTS**

Program/Activity	Description	Grade Level
MTSS	<i>A multi tiered approach to ensure student success that encompasses the academic, behavioral and social emotional needs of all students.</i>	TK-8
PBIS	<i>A multi tiered approach to positive behavior management</i>	TK-8
SST	<i>A team of school staff and parents who meet to discuss the academic, behavioral and social emotional needs of students.</i>	TK-8
SARB	<i>District School Attendance Review Board that meets to determine underlying causes for chronic absenteeism and determines which supports are needed to increase attendance.</i>	TK-8
Tobacco Use Prevention Education (TUPE)	<i>Tobacco prevention strategies such as education for students of the effects of tobacco, alcohol and drugs on their bodies, in order to prevent and/or decrease usage among students.</i>	TK-8

In compliance with California Education code 48916.1, the Evergreen School District has developed the following plan, which identifies educational services available to expelled youth. This plan identifies gaps in educational services to expelled youth and identifies strategies in order to fill these gaps. This plan also identifies alternative placements for pupils who are expelled but who fail to meet the terms and conditions of their Rehabilitation Plan or who pose a danger to other district pupils, as determined by the Board of Trustees.

The Evergreen School District offers the following options for expelled youth, depending on the specific offense and Education Code violation:

1. Meeting with parents to discuss ways to support the student at home and school.
2. Behavioral support plan/contract.
3. School Psychologist/Social Worker/Counselor/MFT Intern support.
4. Administrator open door practice where students feel safe to ask for support.
5. Counseling with outside community based organizations.
6. Counseling with the San Jose Police Department Liaison.
7. Assemblies on topics such as social media usage and bully prevention strategies.

Current program offerings, interventions, and administrative referrals or placements

To minimize the number of suspensions leading to expulsions, to minimize the number of expulsions ordered, and to support students returning from expulsions, the Evergreen School District uses the following behavior intervention practices:

1. Implementation of the Positive Behavioral Intervention and Supports (PBIS) program. PBIS is a comprehensive, 3-tiered approach to implementing positive behavior expectation systems in our schools.
2. Multi-Tiered System of Supports (MTSS). MTSS is an integrated, comprehensive framework that focuses on individualized student needs, and the alignment of systems necessary for all students' academic, behavioral, and social success.
3. Student Study Teams (SST) meeting. Students can be referred to the SST in order to support any academic, behavioral or social emotional needs that are preventing a successful school experience.
4. Behavioral expectations and student codes of conduct are provided to students in an easily understandable, age-appropriate format through school wide assemblies that are held twice a year and can be followed up in a small group or individual setting as needed.
5. Collection and analysis of multiple forms of data, including school climate surveys, CA Healthy Kids Surveys in 5th/6th and 7th grade yearly, PBIS data, and other measures as needed to track progress in creating and maintaining a safe, inclusive and positive educational environment.
6. Regular evaluation of each school's discipline practices and other school-wide behavior management approaches to determine if they are affecting students of different racial and ethnic groups equally. Such a regulation includes requiring the regular review of discipline reports to determine whether students with different personal characteristics (e.g., race, sex, disability, and English learner status) are disproportionately disciplined, and any other indicators that may reveal disproportionate disciplinary practices.

Evergreen School District offers the following options for expelled youth, depending on the particular offense and California Education Code violation:

1. Expulsion with suspension of the expulsion order and placement to continue on the same school campus, Education Code 48917 (a).
2. Expulsion with suspension of the expulsion order and placement on another school campus within the school district, Education Code 48917 (a).
3. Expulsion with referral to a district community day program, if available, Education Code 486604.

4. Expulsion with referral to the Santa Clara County Office of Education Alternative Education Department Community School, Education Code 1981.
5. Expulsion with referral to the Santa Clara County Office of Education Independent Study Program, if available.

There are gaps that exist in respect to providing educational services to expelled pupils. Following each gap is the District strategy for addressing the gaps.

- i It is possible under Education Code 48916.1 that a student could be expelled not only from the District but if they commit another violation of Education Code 48915, they could be discharged from the Community School where they are enrolled. They would be in need of another placement.

District strategy to address this gap:

The status of the student will be reviewed by the District team and recommendations made, if appropriate, to refer to another Santa Clara County Office (SCCOE) of Education Community School, SCCOE Independent Study program, or Non-Public School.

- ii Students in grades one through six who are expelled do not have the same educational opportunities available to them as do expelled youth who are in grades seven through twelve, due to limited numbers of students expelled in the lower grades. These younger children cannot attend the programs designed for middle and high school students.

District strategy to address this gap:

The District will work in collaboration with adjoining school districts and the County Office of Education to create alternative educational options for younger children. A student may be able to utilize some of the existing services available through the Alternative Schools Department operated by the Santa Clara County Office of Education. This may include a modified independent study program or a modified educational program at a Community School campus. Home teaching or non-public school placement might also need to be considered if no other options are available.

- iii Students in grades seven and eight may not have alternative educational programs available to them in close proximity to their home or local school district. This would occur if the closest site was at capacity.

District strategy to address this gap:

District will maintain continual dialogue with the Alternative Schools Department at the Santa Clara County Office of Education to alert them to trends in increasing numbers of expelled youth in order for them to plan additional classes.

For those expelled students who have been placed in an alternative educational program but who fail to meet the terms or conditions of their Rehabilitation Plan or who pose a danger to other district pupils, a plan must be established to address their needs.

District Strategy:

The Evergreen School District continues to maintain responsibility for reviewing options remaining for the student. A review of the student's status should take place to determine what other options might be available. The student may be referred to a Santa Clara County Office of Education Community School program or Independent Study program. An Individual Learning Plan (ILP) may be developed with the student's parent and the student. It may be appropriate to involve other agencies or resources in this plan if they have not been involved in the past. The Evergreen School District is not obligated to place a student back in a District school if the terms or conditions of the Rehabilitation Plan have not been adhered to by the student.

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states "each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county." This section of California Education Code also states that "the plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles.

Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states "At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion..." Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district's governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district's sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the

complete "Plan for Providing Educational Services to all Expelled Students in Santa Clara County." Any substantive changes to district sub-plans during the period between triennial updates receive approval by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

Santa Clara County Alternative Education Programs

The Santa Clara County Office of Education offers educational alternatives to expelled students through community schools. The expulsion status of a student has no negative impact on eligibility or placement.

Community school enrollments require referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c). School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program or blended learning through an intervention process to include but not limited to: Student Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education are as follows:

Community Schools:

Sunol grades 6-12

South County grades 6-12

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions(a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-5, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 6-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

GAPS IN EDUCATIONAL SERVICES TO EXPELLED STUDENTS AND STRATEGIES FOR FILLING THOSE GAPS

The gaps identified in 2021 in educational services to expelled students remain a focus for Santa Clara County. We continue to work with staff, districts, students and families to mitigate their impact.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are in rural areas and others are in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings
2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.
3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs

addressed.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program.

Students

BP 5144.1(a)

SUSPENSION AND EXPULSION/DUE PROCESS

The Board of Trustees desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law and the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance accounting within any district school or other school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

Appropriate Use of Suspension and Expulsion

Except when a student commits an act that violates Education Code 48900(a)-(e) or his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct.

Except when a student commits an act listed in Education Code 48915(c), the Superintendent or designee shall have the discretion to determine whether to recommend to the Board that the student be expelled.

To correct the behavior of any student who is subject to discipline, the Superintendent or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144 - Discipline. (Education Code 48900.5, 48900.6)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

District staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal.

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Removal from Class by a Teacher and Parental Attendance

When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code 48900.1)

Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the teacher and the student and his/her parents/guardians and to improve the student's behavior.

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law and that, if there are reasonable factors that may prevent the parent/guardian from complying with the requirement, he/she should contact the school. (Education Code 48900.1)

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

At the meeting with the student's parent/guardian, the principal or designee shall explain the district's and school's discipline policies, including the disciplinary strategies that may be used to achieve proper student conduct.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by telephone, mail or other method that maintains the confidentiality of the student's records.

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

Supervised Suspension Classroom

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Decision Not to Enforce Expulsion Order

Upon voting to expel a student, the Board may suspend enforcement of the expulsion order pursuant to the requirements of law and administrative regulation. (Education Code 48917)

Maintenance and Monitoring of Outcome Data

The Superintendent or designee may annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

The report may be disaggregated by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, and students with disabilities. The report also may include information about whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

Legal Reference: (continue on next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment
233 Hate violence
1981 Enrollment of students in community school
17292.5 Program/or expelled students
32261 Interagency School Safety Demonstration Act of 1985
35145 Open board meetings
35146 Closed sessions (regarding suspensions)
35291 Rules (for government and discipline of schools)
35291.5 Rules and procedures on school discipline
48645.5 Readmission; contact with juvenile justice system
48660-48666 Community day schools
48853.5 Foster youth
48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parental notifications
49073-49079 Privacy of student records
52060-52077 Local control and accountability plan

CIVIL CODE

4 7 Privileged communication
48.8 Defamation liability
CODE OF CIVIL PROCEDURE
1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt
54950-54963 Ralph J. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia
11053-11058 Standards and schedules

LABOR CODE

230. 7 Discharge or discrimination against employee/or taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined
240 Assault defined
241.2 Assault fines
242 Battery defined
243.2 Battery on school property
243.4 Sexual battery
245 Assault with deadly weapon
245.6 Hazing
261 Rape defined
266c Unlawful sexual intercourse
286 Sodomy defined
288 Lewd or lascivious acts with child under age 14
288a Oral copulation
289 Penetration of genital or anal openings
417.27 Laser pointers
422.55 Hate crime defined
422.6 Interference with exercise of civil rights
422.7 7 Aggravating factors for punishment

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

422.75 *Enhanced penalties for hate crimes*
626.2 *Entry upon campus after written notice of suspension or dismissal without permission*
626.9 *Gun-Free School Zone Act of 1995*
626.10 *Dirks, daggers, knives, razors, or stun guns*
868.5 *Supporting person; attendance during testimony of witness*
WELFARE AND INSTITUTIONS CODE
729.6 *Counseling*
UNITED STATES CODE, TITLE 18
921 *Definitions, firearm*
UNITED STATES CODE, TITLE 20
1415(K) *Placement in alternative educational setting*
7151 *Gun-free schools*

Revised: November 13, 2014

Policy

adopted: March 21, 2013

**EVERGREEN SCHOOL
DISTRICT**

**San Jose,
California**

SUSPENSION AND EXPULSION/DUE PROCESS

Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(u))

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)**Grounds for Suspension and Expulsion**

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))
3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(±))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 489000))

11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code 48900(k))

12. Knowingly received stolen school property or private property (Education Code 48900(1))

13. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(11))

15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(0))

16. Unlawfully offered, attempted to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))

17. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events.

18. Engaged in an act of bullying (Education Code 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property;

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 (items #21-23 below), that has any of the effects described above on a reasonable student.

Electronic act means the creation or transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31. (Education Code 48900(t))
20. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

A student in grades 4-8 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

21. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

22. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

23. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

Removal from Class by a Teacher and Parental Attendance

A teacher may remove a student from his/her class for the remainder of the day and the following day only for acts specified in Education Code 48900 and listed under "Grounds for Suspension and Expulsion" above. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible after the teacher decides to remove the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was removed. (Education Code 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Pursuant to Board policy, a teacher may require the parent/guardian of a student whom the teacher has removed to attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

The notice shall:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Direct the parent/guardian to meet with the principal after the visit and before leaving school
4. Direct the parent/guardian to contact the school if there are reasonable factors that would prevent him/her from complying with the attendance requirement

Suspension by Superintendent, Principal, or Designee

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. Brandishing a knife as defined in Education Code 48915(g)
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
5. Possessing an explosive as defined in 18 USC 921

In addition, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code 48900.5)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, when a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)**Due Process Procedures for Suspension**

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

Although the parent/guardian is required to respond without delay to a request for a conference about his/her child's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911)

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

In addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed under "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073- 49079. (Education Code 35146, 48912)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

Supervised Suspension Classroom

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918U))

The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled, upon the recommendation of the Superintendent, principal, or designee, only if the Board makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

Superintendent, Principal, or Designee's Authority to Recommend Expulsion

Unless the Superintendent, principal, or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g) or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Mandatory Recommendation and Mandatory Expulsion

The Superintendent, principal, or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence

However, possession of an imitation firearm, as defined in Education Code 48900(m), shall not be regarded as an offense requiring a mandatory recommendation for expulsion and mandatory expulsion.

2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed one of the acts listed above under "Grounds for Suspension and Expulsion." (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an offense listed above under "Grounds for Suspension and Expulsion" for which expulsion is permitted or mandatory, the Superintendent, principal, or designee may offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).
5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by an attorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

Additional Notice of Expulsion Hearing for Foster Youth

At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code 48853.5 should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(-f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
- a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a non threatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(£))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918U))

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision Not to Enforce Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918U))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)**Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students regarding the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Post-Expulsion Placements

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #21-23 under "Grounds for Suspension and Expulsion" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073- 49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's an-est, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

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EVERGREEN SCHOOL DISTRICT
San Jose, California

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536.

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A *change of placement* shall be deemed to have occurred under either of the following circumstances:

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.
 - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
 - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such Services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur.

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation.

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function:

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team.

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504.

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. **Notice:** On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CPR 300.504.
2. **Manifestation Determination Review:** Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action.

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IBP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IBP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following:

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IBP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability.

3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the student's conduct has been determined to be a manifestation of his/her disability, the IBP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IBP team shall review the behavioral intervention plan and modify it as necessary to address the behavior.

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan.

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP.

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b).

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise.

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

Decision Not to Enforce Expulsion Order

The Board of Trustee's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students.

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian.

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action.

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had *knowledge* of the student's disability.

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred:

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC 1414(a)(1)(B) or 34 CFR 300.300-300.311.

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CPR 300.300- 300.311, the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior.

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CPR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities.

Legal Reference: (see next page)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH
DISABILITIES) (continued)**

Legal Reference:

EDUCATION CODE

35146 Closed sessions re: suspensions 35291

Rules of governing board

48203 Reports of severance of attendance of disabled students

48900-48925 Suspension and expulsion

49076 Access to student records

56000 Special education; legislative findings and declarations 56320

Educational needs; requirements

56321 Development or revision of individualized education program 56329

Independent educational assessment

56340-56347 Individualized education program teams

56505 State hearing

PENAL CODE

245 Assault with deadly weapon

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act

626.10 Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury UNITED

STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards UNITED

STATES CODE, TITLE 21

812 Controlled substances UNITED

STATES CODE, TITLE 29

706 Definitions

794 Rehabilitation Act of 1973, Section 504 CODE

OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.818 Assistance to states/or the education of students with disabilities, especially:

300.530-300.537 Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puvallup School District, (1994 9th Cir.) 31 F.3d 1489

MP. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044 Honig

v. Doe, (1988) 484 U.S. 305

Board approved:

Regulation

approved: March 21, 2013

**EVERGREEN SCHOOL
DISTRICT**

**San Jose,
California**



**Three Year Expulsion Plan Between the
Moreland School District and
The Santa Clara County Office of Education
For the Implementation of Education Code 48916.1**

May 2021

Information in Regard to Adoption of Expulsion Plan

This page has been intentionally left blank. This page will be updated to document the date this plan was approved by the Moreland School Board.

The School Board meeting agenda and minutes from this meeting will also be inserted here documenting Board approval.

Moreland School District Plan Educational Alternatives for Expelled Students

The Moreland School District's Plan for students potentially facing expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for one-time acts of grave nature, expulsion is usually used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, and/or when the students' presence causes a continuing danger to other students.

The Moreland School District offers the existing intervention programs:

Program/Activity	Description of Activity	Grade Level
PBIS	A multi-tiered approach to positive behavior management.	TK-8
MTSS	A multi-tiered approach to ensure all students have the opportunity to learn by incorporating academic, behavior, and social-emotional support.	TK-8
SST	A team of school staff and parents meeting to discuss a student's academic, behavior, and social-emotional needs.	TK-8
SARB	The School Attendance Review Board meets with families to provide support and address barriers to attendance.	TK-8
Tobacco Use Prevention Education (TUPE)	Tobacco prevention used to educate students on the hazards of drugs, alcohol, and tobacco.	TK-8
Alternatives to Suspension Toolkit	A toolkit of research-based instructional and restorative practices focused on addressing student behavioral needs with other means of correction prior to suspension	TK-8

The Moreland School District offers the following options for expelled youth, depending on the specific offense and Education Code violation.

1. Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
2. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
3. Expulsion with referral to a district community day program, if available, Education Code 48660.
4. Expulsion with subsequent transfer to another district.
5. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School, Education Code 1981.5.
6. Partner with other local districts for alternative placement.

Actual referral to such a placement is made by the Moreland School District Governing Board.

Gaps in Educational Services to Expelled Youth

There are gaps that exist in respect to providing educational services to expelled youth. Following each gap is the Moreland School District strategy for addressing these gaps:

1. Students in grades transitional kindergarten through fifth grade who are expelled do not have the same educational options available as do expelled youth who are in grades six through eight, due to the limited numbers of students who are expelled in these lower grades. These younger students cannot attend the programs designed for older students. The numbers are growing within the county, but generally are not enough to develop an elementary school program.
 - a. Moreland strategy for addressing this gap:
 - i. Regional programs may be developed to reflect geographical or limited numbers.
 - ii. Independent Study program may be developed for transitional kindergarten through fifth grade.
2. There are no programs and/or equivalent services for students with disabilities who are expelled.
 - a. Moreland strategy for addressing this gap:
 - i. Independent Study program may be developed to meet the specific needs of expelled youth with disabilities.
 - ii. The district can contract with local organizations to provide these services.
3. Moreland does not operate a Community Day School program for expelled youth due to staffing and financial limitations.
 - a. Moreland strategy for addressing this gap:
 - i. Refer to a county level Student Study Team or SARB to analyze student needs and suggest alternatives.
4. Plan for Expelled Students who commit subsequent violations:
 - a. Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).

- b. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
- c. Expulsion with referral to a district community day program, if available, Education Code 48660.
- d. Expulsion with subsequent transfer to another district
- e. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School, Education Code 1981.5.
- f. Partner with other local districts for alternative placement.

The Moreland School District Governing Board reviews the recommendation of the Administrative Hearing Panel and/or Chairperson of the Administrative hearing panel. The District Governing Board makes the final referral for placement for all expelled students.

Summary

A student is expelled in the Moreland School District for single acts of a grave nature, when other forms of discipline have failed to bring about proper conduct, and/or when the student's presence causes a continuing danger to other students. The grounds for suspension and the process for implementing expulsion are specified in the District's Administrative Regulations and are in accordance with Educational Code 48900 and 48915. The Moreland School District administration proactively informs all students and parents/guardians of the school's discipline rules and implements character building into curriculum, while promoting a positive, safe school environment for all. Expulsion is only implemented if necessary.

Plan for Providing Educational Services to All Expelled Students in Santa Clara County

California Education Code Section 48926 states "each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county." This section of California Education Code also states that "The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and

refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states "At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion..." Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district's governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors.

County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence.

District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district's sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete "Plan for Providing Educational Services to all Expelled Students in Santa Clara County." Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

Existing Educational Alternatives for Expelled Students

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California

Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Identified Gaps for Santa Clara County Office of Education

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are in rural areas and others are in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings.
2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.
3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled

at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program.

Moreland School District Board Policy Specific to Expelled Youth

Moreland ESD

Board Policy

Suspension And Expulsion/Due Process

BP 5144.1

Students

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law and the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or other school district, regardless of when it occurs, including, but not limited to, the following:
(Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school

3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension and Expulsion

Except when a student's act violates Education Code 48900(a)-(e) as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm

3. Brandishing a knife at another person

4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058

5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4

6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct

2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, student with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48667 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEBSITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<https://www2.ed.gov/about/offices/list/oese/osh>

Policy MORELAND ELEMENTARY SCHOOL DISTRICT

adopted: July 10, 2012 San Jose, California

revised: May 14, 2013

revised: August 2014

revised: April 24, 2018

revised: February 12, 2019

revised: January 12, 2021

Moreland ESD

Administrative Regulation

Suspension And Expulsion/Due Process

AR 5144.1

Students

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections “Additional Grounds for Suspension and Expulsion: Grades 4-12”below:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))

11. Knowingly received stolen school property or private property (Education Code 48900(l))

12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))

14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))

15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))

16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in of the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

a. A message, text, sound, video, or image

b. A post on a social network Internet web site, including, but not limited to, posting to or creating

a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))

19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

A teacher may suspend a student, from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator

shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code 48915(c))

The Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the available evidence against the student, and given the opportunity to present the student's version and evidence. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12", "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (EducationCode 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session)

The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing

within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146-48912)

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent or principal shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student

3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for or other medication prescribed by a physician

4. Robbery or extortion

5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her the right to: (Education Code 48918.5)

1. Receive five days' notice of his/her the scheduled testimony at the hearing
2. Have up to two adult support persons present at the hearing at the time the witness testifies
3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a non attorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Non Attorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written

transcription of the proceedings can be made. (Education Code 48918(g))

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a

hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person who is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a non threatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.
 - (3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a

review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any “mandatory recommendation and mandatory expulsion” act listed in the section “Authority to Expel” in the accompanying Board Policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12", "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the

expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying admittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

Regulation MORELAND ELEMENTARY SCHOOL DISTRICT

approved: February 15, 2006 San Jose, California

revised: January 22, 2013

revised: April 30, 2013

revised: July 9, 2014

revised: April 2015

revised: April 16, 2018

revised: January 22, 2019

revised: December 7, 2020



Wednesday, April 21, 2021
REGULAR MEETING OF THE BOARD OF TRUSTEES

MT. PLEASANT ELEMENTARY SCHOOL DISTRICT

Pursuant to Governor Gavin Newsome's executive order No. N-29-20 the closed and open session regular board meeting will be conducted exclusively via "Zoom" video.

Join meeting at: <https://mpesd-org.zoom.us/j/86834381038>

The Board Room will not be open or available for the public to attend and participate in the board meeting.

Members of the public may participate and comment as follows: Public comment must be submitted electronically online before or during the meeting. Please reference the agenda number in your written comment. Members of the public must submit public comments before the Board's consideration of the item.

SUBMIT PUBLIC: <https://forms.gle/wBfdoQJUJuCg4S8JA>

1. CALL TO ORDER - 5:00 PM

1.1 Roll Call

1.2 Approval of Agenda

1.3 Public Comment on Closed Session Items

2. RECESS TO CLOSED SESSION - 5:05 PM

2.1 Public Employee Appointment/Employment – Items listed in Personnel Action

2.2 Public Employee Discipline/Dismissal/Release - Items listed in Personnel Action

2.3 Superintendent Evaluation

2.4 Conference with Legal Counsel - Existing Litigation - Government Code Section 54956.9 subd (d)(1): One case.

2.5 Negotiations

3. RECONVENE TO OPEN SESSION - 6:00 PM

3.1 Report from Closed Session if needed

4. SPECIAL ORDER OF BUSINESS/REPORTS-BOARD DISCUSSION AND/OR ACTION

4.1 The Superintendent and/or Board Member(s) may request that items be considered, discussed, and acted on out of the order indicated.

4.2 Discussion and/or Action Regarding School Re-opening Update - Dr. Elida MacArthur, Superintendent & Laurie Breton, Student Services Director

4.3 Presentation of MPEA Report - Cindy Parico, President, and Gabriela Roman, VP

5. SUGGESTIONS AND COMMENTS FROM THE AUDIENCE

5.1 Guidelines/Public Comment Link

6. PERSONNEL ACTION

6.1 Personnel

7. ACTION ITEMS

- 7.1 Resolution 20-21-17 - Classified Layoffs
- 7.2 Resolution 20-21-18 - Teacher Appreciation Week
- 7.3 Resolution 20-21-19 - Classified Employees Week
- 7.4 DRAFT Resolution In Support of Black Lives Matter
- 7.5 DRAFT Resolution Denouncing Hate Crimes and Bigotry Targeting Asian Americans and Pacific Islanders
- 7.6 2021 CSBA Delegate Assembly Region 20 Run-Off

8. CONSENT ACTION ITEMS

- 8.1 Approval of Minutes of the February 13, 2021 Special Board Meeting
- 8.2 Approval of Minutes of the March 10, 2021 Regular Board Meeting
- 8.3 Approval of Minutes of the March 24, 2021 Special Board Meeting
- 8.4 2020-2021 Agreement Between Mt. Pleasant Elementary School District and Sintia Valdes Castro
- 8.5 2020-2021 Agreement Between Mt. Pleasant Elementary School District and Foundations Psychological Services, A Professional Corporation
- 8.6 2020-2021 Memorandum of Understanding Between Mt. Pleasant School District and Santa Clara County Office of Education - Mathematics for Social Justice Toolkit
- 8.7 2020-2021 Memorandum of Understanding Between Silicon Valley Education Foundation and Mt. Pleasant Elementary School District
- 8.8 2021-2022 Agreement Between Zearn and Mt. Pleasant Elementary School District
- 8.9 Approval of Bid - Valle Vista Roofing Project
- 8.10 2021 Comprehensive Safe School Plan
- 8.11 2021-2024 Expulsion Plan
- 8.12 Revised Board Policy BP 4030 - Personnel-Nondiscrimination in Employment (Second Read)
- 8.13 Revised Board Policy BP 4119.11, 4219.11, 43119.11 - Personnel-Sexual Harassment (Second Read)
- 8.14 Quarterly Report on Williams Uniform Complaints - Academic School Year 2020-2021 (Q3)
- 8.15 Approval of Warrant List
- 8.16 Acceptance of Donations

9. INFORMATION ITEMS (ITEMS NOT REQUIRING ACTION)

10. FUTURE AGENDA ITEMS

- 10.1 Uniform Committees/Dress Code - TBD
- 10.2 Minority and Local Businesses - TBD
- 10.3 Board Policy on Equity in Personnel Lay-offs - TBD
- 10.4 Student Performance/Success in High School/Graduation Requirements - TBD
- 10.5 Enrollment Projection Study - TBD

10.6 Family Case Managers Report - May 26, 2021

10.7 California Dashboard - TBD

10.8 Future Board Meeting Format - TBD

11. BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS

12. CLOSED SESSION WHEN REQUIRED FOR NON-ROUTINE ITEMS

13. ADJOURNMENT

13.1 Meeting Adjournment

14. NEXT MEETING

14.1 The next regularly scheduled Board meeting will be held on Wednesday, May 12, 2021, 5:00 p.m. In response to the COVID-19 virus situation and in accordance with state and county public health officials' recommendations against any group gatherings unless completely necessary, this meeting will be held via teleconference. Meeting specifics will be posted prior to the meeting.



Mt. Pleasant School District Board of Trustees
Melissa Got-Lopez
Derek Grasty
Betty A. Martinez.
Robert Ramirez
Brenda M. Serrano

Dr. Elida MacArthur, Superintendent

**Three-Year Expulsion
Plan Between the
Mt. Pleasant School
District and
The Santa Clara County Office of Education
For implementation of Education Code
48916.1
2021-2024**

Adopted by Mt. Pleasant School District Governing Board, April 21, 2021.

In compliance with California Education Code 48916.1, The Mt. Pleasant School District has updated the three-year Plan for Expelled Youth. The Plan identifies educational services available to expelled youth, and strategies designed to fill these gaps. The plan also identifies alternative placements for students who are expelled but who fail to meet the terms and conditions of their rehabilitation Plan or who pose a danger to other district students, as determined by the Governing Board.

Over the last number of years the Mt. Pleasant School District has shown a significant reduction in exclusionary discipline practices; the number of students who have been suspended or expelled from district schools. By utilizing school wide interventions such as Positive Behavior Interventions and Supports (PBIS), less exclusionary means of discipline including Restorative Justice practices and changes in District policies and procedures fewer students are being removed from instruction. The District has also undertaken work in the area of equity to assure that certain groups are not disproportionately receiving exclusionary discipline and being suspended or expelled. Below is Mt. Pleasant School District's plan for implementation of education code 48916.1

Mt. Pleasant School District Plan - Educational Alternatives for Expelled Students

Current program offerings, interventions, and administrative referrals or placements.

To minimize the number of expulsions ordered, and to support students returning from expulsion, the Mt. Pleasant School District uses the following behavioral interventions practices:

Title/ Program	Activity	Grade Level
Parent Conference	Meet with parents to discuss ways to support the student's behavioral needs at home	K-8
PBIS – Tier I	Behavioral assemblies and lessons explicitly teaching school rules consistent with PBIS.	K-8
Counseling	Counseling with student advisor	K-8
PBIS Tier III	Develop a positive behavioral support plan/contract	K-8
PBIS	Implementation of Positive Behavioral Intervention and Supports (PBIS) program. PBIS is a three-tiered system of support for students that focus on positive universal and targeted behavioral interventions.	K-8

Date Evaluation	Annual District data collection to evaluate discipline practices and implementation to ensure that there are not disproportionate impacts of discipline on specific groups of students, including race, ethnicity, students with disabilities, English Language learners for example.	K-8
MTSS	Multi-Tiered Systems of Support: Referring students with complex emotional and behavioral needs to students support Team which may lead to referral to outside community based agencies, psychological assessment, health services or	K-8
SARB	Student Attendance Review Board	K-8

Mt. Pleasant offers the following interventions and administrative referrals or placement options for expelled youth, based on the California Education Code Violation.

Restorative Justice	Positive Behavior Intervention and Supports (PBIS) and implementation of Restorative Justice practices at tier three, individual supports
Suspended Expulsion Order	Expulsion, with a suspended order, with placements on the same school campus, Educational Code 48917 (a).
Suspended Expulsion Order, change in campus	Expulsion, with a suspended order, with placements on a different school campus, Educational Code 48917 (a).
Community Day School Blended Model	Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School.
Placement in other District	Expulsion with subsequent transfer to another district. Mt. Pleasant and Evergreen have an agreement on a case by case basis.
Hybrid model	Home teaching or Independent Study at the request of the parent

The gaps identified in educational services to expelled youth have changed since the last Expulsion Plan update. While there are no elementary community school sites for expelled youth, there have been no elementary age students expelled over the last six years.

1. Transportation to appropriate programming is an issue for parents. Many parents work or do not have the time or financial resources to transport their student across town daily to attend a community school. Even when offered bus passes or tokens by the District most parents do not want their middle school aged student taking a bus across town daily by themselves.
2. Parent perception of community school placements is not positive as students are placed with other expelled youth. Therefore, some parents refuse enrollment in the community school.
3. Although there are informal agreements with other districts, acceptance is on a case-by-case basis and not always feasible given the nature of the behavioral infraction. Neighboring districts tend to decline students with serious safety infractions.

Current strategies for filling the gaps in services

1. To address the placement gaps identified above, the District is looking to collaborate with the Santa Clara County Office of Education on a blended learning model allowing students the option of both independent work, and direct instruction online or in person and a classroom learning to meet their needs with mental health support.
2. The Mt. Pleasant School District has offered bus tokens to families to assist with transportation needs when funding is an issue and has offered tokens as well to Parent/Guardians wanting to accompany their student.
3. To address concerns with attending the Community Day School, The Mt. Pleasant School District works with parents to observe the Community School Program and available supports before making decisions about enrollment.
4. The Mt. Pleasant School District has established a partnership with Evergreen School District to support student placement.
5. Independent Study or Home Instruction may be considered if a Parent/Guardian refuses enrollment in Community Day School, or is unable to attend a comprehensive school site and student is not enrolled in school.

Plan for students who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

1. Students who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils are to remain in a community school until able to successfully return to the comprehensive school campus.
2. Director of Student Support Services meets with families prior to the end of the term of expulsion to review the Rehabilitation Plan and to discuss any obstacles in completing the Governing Board specified conditions.

Plan for Expelled Students who commit subsequent violations

1. The District works with the County Office of Education to either return a student to the District who has committed subsequent offenses or to determine if other placement options are available to meet the expelled student's needs.
2. The District administration review the needs of the student to determine if other supports are required to bring about changes in behavior.



**Thursday, May 13, 2021
Regular Meeting (amended)**

6:00 PM OPEN SESSION (approximate time)

5:00 PM CLOSED SESSION (669 900 6833 Meeting ID: 969 3254 3041)

LIVESTREAM on YouTube linked above "Video"

PUBLIC COMMENT PROCESS:

1. SUBMIT REQUEST TO SPEAK---<https://forms.gle/2So16U2fyBqw9M4d6>

2. JOIN Zoom at 6:00 PM---[https://zoom.us/j/96204373571?](https://zoom.us/j/96204373571?pwd=R1RaYk9GaThJUwQwenMzdWpVaUp0QT09)

pwd=R1RaYk9GaThJUwQwenMzdWpVaUp0QT09

.....By Phone: (669) 900-6833 Webinar ID: 962 0437 3571

***** IMPORTANT NOTICE *****

PURSUANT TO EXECUTIVE ORDER NO. N-29-20, AND IN ORDER TO NOT PREVENT, HINDER, OR DELAY APPROPRIATE ACTIONS TO PREVENT AND MITIGATE THE EFFECTS OF THE COVID-19 PANDEMIC, TODAY'S CLOSED AND OPEN SESSION REGULAR BOARD MEETING WILL BE CONDUCTED EXCLUSIVELY VIA CONFERENCE TELEPHONE AND THROUGH "ZOOM" VIDEO CONFERENCING.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND EXECUTIVE ORDER N-29-20, IF YOU NEED SPECIAL ASSISTANCE, DISABILITY-RELATED MODIFICATIONS OR ACCOMMODATIONS, INCLUDING AUXILIARY AIDS OR SERVICES, IN ORDER TO PARTICIPATE IN TODAY'S PUBLIC MEETING OF THE BOARD OF TRUSTEES, PLEASE CONTACT THE OFFICE OF THE DISTRICT SUPERINTENDENT AT (408) 227-8300 ext. 100203 IMMEDIATELY AND THE DISTRICT WILL MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCOMMODATION AND ELECTRONIC ACCESSIBILITY TO THIS MEETING.

1. CALL TO ORDER (5:00 PM)

1.1 CALL TO ORDER

1.2 SET AGENDA

1.3 CLOSED SESSION ANNOUNCEMENT

1.4 RECESS TO CLOSED SESSION

2. CLOSED SESSION (5:03 PM approximate)

2.1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Superintendent

2.2 PUBLIC EMPLOYEE DISCIPLINE/RELEASE/DISMISSAL - Government Code section 54957

2.3 CONFER WITH LABOR NEGOTIATOR

2.4 CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Government Code section 54956.8

3. RESUME OPEN SESSION (6:00 PM approximate)

3.1 BOARD PRESIDENT WELCOME

3.2 LAND ACKNOWLEDGEMENT

3.3 PLEDGE OF ALLEGIANCE

3.4 SUPERINTENDENT'S REPORT and STUDENT SUCCESS AND INNOVATIVE SPIRIT VISION AWARDS

3.5 CLOSED SESSION REPORT

3.6 PUBLIC COMMENT

3.7 EMPLOYEE BARGAINING UNIT COMMENT

4. PUBLIC HEARING

4.1 Public Hearing on the Negotiated Settlement Agreement between the Oak Grove School District and California School Employees Association (CSEA), Chapter 412

4.2 Public Hearing on the Negotiated Settlement Agreement Between the Oak Grove School District and the American Federation of State, County and Municipal Employees (AFSCME), Local 101

5. CONSENT AGENDA

5.1 Special Meeting Minutes - April 26, 2021

5.2 Meeting Minutes - February 11, 2021

5.3 Certificated Personnel Order

5.4 Classified Personnel Board Order

5.5 Expulsion Three-Year Plan 2021-2024

5.6 Consent Agenda Consideration

6. ACTION

6.1 CLASSIFIED SCHOOL EMPLOYEES' WEEK

6.2 NEGOTIATED SETTLEMENT BETWEEN OAK GROVE SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION (CSEA), CHAPTER 412

6.3 NEGOTIATED SETTLEMENT BETWEEN OAK GROVE SCHOOL DISTRICT AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), LOCAL 101

6.4 DECLARATION OF NEED FOR FULLY QUALIFIED EDUCATORS

6.5 BOARD POLICY REVISION FIRST READING - BP 0415 EQUITY

6.6 RESOLUTION - DENOUNCING HATE CRIMES AGAINST THE LATINO COMMUNITY

6.7 RESOLUTION - ESTABLISHING A WELLNESS AND SAFETY COMMITTEE TO SUPPORT MENTAL, PHYSICAL, AND OVERALL WELLNESS

7. INFORMATION ITEMS

7.1 LOCAL CONTROL ACCOUNTABILITY PLAN (LCAP) and EXPANDED LEARNING OPPORTUNITIES (ELO) STAKEHOLDER INPUT RESULTS

7.2 GENERAL OBLIGATION BOND FINANCING (Reordered to follow Consent Items)

8. CLOSING ITEMS

8.1 CORRESPONDENCE/COMMITTEE REPORTS

8.2 ADJOURNMENT



Agenda Item Details

Meeting	May 13, 2021 - Regular Meeting (amended)
Category	5. CONSENT AGENDA
Subject	5.5 Expulsion Three-Year Plan 2021-2024
Type	Action (Consent)
Recommended Action	It is recommended that the Board of Trustees approve the three-year Expulsion Plan as required by California Education Code 48926.

REPORTED BY/PERSON RESPONSIBLE: Assistant Superintendent, Ivan Chaidez

BACKGROUND: California Education Code (EC) Section 48916.1(a) provides that, at the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an education program is provided to the pupil during the expulsion period. EC Section 48926 requires county superintendents, in conjunction with district superintendents within the county, to develop a plan for providing education services to all expelled pupils within that county. The plan was to be adopted by both the governing board of each school district within the county and by the county board of education and then submitted to the State Superintendent of instruction in 1997. EC Section 48926 further requires that each county superintendent of schools, in conjunction with district superintendents in the city, submit a triennial update to that plan to the State Superintendent of Public Instruction.

DISCUSSION: Education Code dictates that we update our Expulsion Plan every three years. In the past three years, OGSD has not needed to expel a student. To comply with this State requirement, we update our Expulsion Plan to reflect updates in our practice. The plan intends to provide clear expulsion procedures following California Education Codes and create a common understanding of the State guides' expulsion process.

FISCAL IMPACT: Oak Grove School District has purchased five Community School Allotments through the Santa Clara County Office of Education to provided services for our students if expelled. The annual fiscal impact is \$50,000.

OUTCOME: It is recommended that the Board of Trustees approve our OGSD three-year plan for 2021-2024 to comply with State law.

[OGSD Three Year Expulsion Plan 2021 approved 5.13.21.pdf \(254 KB\)](#)

Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Documentation concerning these items has been provided to all board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.

Motion & Voting

The Board of Trustees approved the Consent Agenda items, as presented.

Motion by Carla Hernandez, second by Beija Gonzalez.

Final Resolution: Motion Carries

Yea: Jorge Pacheco Jr, Carla Hernandez, Brian LoBue, Tami Moore, Beija Gonzalez



**Three Year Expulsion Plan Between the
Oak Grove School District
and
The Santa Clara County Office of Education
For the implementation of Education Code 48916**

Developed by

Oak Grove School District Educational Services Department

May 13, 2021

Oak Grove School District, 6578 Santa Teresa Boulevard, San Jose, CA 95119

APPROVED BY BOARD OF TRUSTEES ON:

May 13, 2021

INTRODUCTION

Legislation mandates a county-wide plan that identifies the educational placement for all expelled students.

The provisions of Education Code 48916 requires that a governing board refer students who are expelled, to a program that:

1. Can appropriately accommodate students who exhibit discipline problems;
2. Is not provided at a comprehensive middle, junior, or senior high school; and
3. Is not housed at the school site attended by the student at the time of the expulsion.

The education code requires superintendents of the school districts within the county in conjunction with the county superintendent, to develop a plan for providing educational services to all expelled students. According to Education Code Section 48926, the plan must:

1. Identify existing educational alternatives for expelled students;
2. Identify gaps in educational services to expelled students and strategies for filling those service gaps;
3. Identify alternative placements for students who are expelled and placed in district community day schools, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a continuing danger to school safety as determined by the governing board.

Finally, Education Code Section 48916.1 requires the county board of education and the governing board of each school district within the county to: (1) adopt the plan; (2) submit the plan to the State Superintendent of Public Instruction by June 30, 1997; and (3) submit an update to the plan, including the outcome data required by Section 48916.1, every three years thereafter.

OAK GROVE SCHOOL DISTRICT PLAN FOR EXPELLED YOUTH

Existing Educational Alternatives for Expelled Youth

Our goal is to keep all students in the mainstream classroom at a comprehensive school site unless doing so is detrimental to the safety of the student or of others. Oak Grove School District, located within the Santa Clara County, offers the following options for expelled youth, depending on the specific offenses and Educational Code violation:

- Suspended expulsion with placement at a different campus within the District (Educational Code 48917 (a))
- Suspended expulsion with voluntary placement in the Homeschooling or Independent Study program
- Expulsion with referral to the Santa Clara County Office of Education Community School (Education Code 1981.5)
- Placement in another district or charter school, with consent from all parties

All expulsions and suspended expulsions must be approved by the Oak Grove Board of Trustees and must be aligned to the State Education Code and Oak Grove School District Board Policy and require the student to complete a Rehabilitation Plan. The Rehabilitation Plan includes:

- a. Maintain a good academic standing (at least a C in every class)
- b. Strong attendance record (90% or better)
- c. A behavior record indicating no infraction of school rules and regulations and no violations of the Education Code, Penal Code or other law
- d. Counseling if applicable
- e. Community Service if applicable

Existing Intervention Programs

- Positive Behavioral Interventions and Support (PBIS)
- Restorative Practices
- “Don’t Suspend Me!” Strategies
- MTSS (Multi Tiered Support System) team development
- Mental Health support through outside agencies
- Mental Health Counselor
- Academic Counselors
- Social Worker Support
- Formal reprimand
- Voluntary transfer
- Community Service
- Behavior Contract

Gaps and Strategies to Fill Those Gaps in the Oak Grove School District

There are gaps that exist in respect to providing educational services to expelled pupils. Oak Grove School District has identified those gaps and has identified strategies to address them:

- **Identified Gap:**

There is no community day school program available for students in the elementary setting (grades one through five) who are expelled. The Santa Clara County Community Day School only supports students that are expelled from 6th to 12th grade. This is partly due to the limited number of students who are expelled in these lower grades.

Strategy:

Should the need arise, younger students who are expelled may be offered a suspended expulsion which would allow them to attend a different school within our district. As an alternative Homeschooling or Independent Study programs may also be offered as a parent choice.

- **Identified Gap:**

A student who has been expelled from the district and referred to a Santa Clara County Community Day School Program may commit another expellable violation and be referred back to the district of residence.

Strategy:

The Oak Grove School District will continue to use existing education strategies and programs to meet the needs of expelled students and when the need arises alternatives will be explored including placement in another district, with consent from all parties.

OAK GROVE SCHOOL DISTRICT BOARD POLICY FOR EXPELLED YOUTH

STUDENTS

BP 5144.1 – Suspension and Expulsion/Due Process

The Board of Trustees desires to provide District students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of District students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any District school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the District's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee,

unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan
64000-64001 Consolidated application
CIVIL CODE
47 Privileged communication
48.8 Defamation liability
CODE OF CIVIL PROCEDURE
1985-1997 Subpoenas; means of production
GOVERNMENT CODE
11455.20 Contempt
54950-54963 Ralph M. Brown Act
HEALTH AND SAFETY CODE
11014.5 Drug paraphernalia
11053-11058 Standards and schedules
LABOR CODE
230.7 Employee time off to appear in school on behalf of a child
PENAL CODE
31 Principal of a crime, defined
240 Assault defined
241.2 Assault fines
242 Battery defined
243.2 Battery on school property
243.4 Sexual battery
245 Assault with deadly weapon
245.6 Hazing
261 Rape defined
266c Unlawful sexual intercourse
286 Sodomy defined
288 Lewd or lascivious acts with child under age 14
288a Oral copulation
289 Penetration of genital or anal openings
417.27 Laser pointers
422.55 Hate crime defined
422.6 Interference with exercise of civil rights
422.7 Aggravating factors for punishment
422.75 Enhanced penalties for hate crimes
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act of 1995
626.10 Dirks, daggers, knives, razors, or stun guns
868.5 Supporting person; attendance during testimony of witness
WELFARE AND INSTITUTIONS CODE
729.6 Counseling
UNITED STATES CODE, TITLE 18
921 Definitions, firearm
UNITED STATES CODE, TITLE 20
1415(K) Placement in alternative educational setting
7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<http://www2.ed.gov/about/offices/list/oese/oshs>

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (subject to availability) (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

GAPS AND STRATEGIES TO FILL THOSE GAPS IN SANTA CLARA COUNTY

- **Identified Gap:**

The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts.

Strategy:

The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings

- **Identified Gap:**

Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle.

Strategy:

One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

- **Identified Gap:**

Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5.

Strategy:

The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

- **Identified Gap:**

Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances.

Strategy:

Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program.



**BOARD OF EDUCATION Regular Board Meeting
03/18/2021 07:00 PM**

Zoom:
https://sesd-org.zoom.us/j/99991367513?
pwd=bDJGRVhyVUZGNHBxVORkNytocVdMdz09
Passcode: 999495

Meeting Minutes
Printed : 3/26/2021 3:09 PM PT

Our Mission

Sunnyvale School District provides every student with a strong foundation of academic, behavioral, and social-emotional skills to prepare them for success in a diverse, challenging, and changing world.

Board Bylaw 9320: "Meetings of the Governing Board are conducted for the purpose of accomplishing district business. In accordance with state open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law."

- Agenda materials are available online and in the Superintendent's Office upon request.
- Individuals requiring special accommodations should contact the Superintendent's Office at least two working days before the meeting date.

This meeting is being held pursuant to Executive Order N-29-20 issued by California Governor Newsom on March 17, 2020. Any or all board members may attend by phone. This meeting will be conducted via web conference. In order to hear, observe, and provide public comment during the meeting via Zoom, click on the link: [Board Meeting Link](#)

Attendees

Voting Members

- Jeff Arnett, Board Member
- Michelle Maginot, Board Member
- Nancy Newkirk, Board Member
- Bridget Watson, Board Member
- Isabel Jubes-Flamerich, Board Member

1. OPENING OF MEETING BY BOARD PRESIDENT

Board President Michelle Maginot called the meeting to order at 7:02 PM. (Due to Covid19 Shelter, the meeting is being conducted via Zoom Meetings and is being recorded)

A. Roll Call

All Trustees were present.

2. APPROVAL OF AGENDA

Motion made by: Jeff Arnett
Motion seconded by: Nancy Newkirk
Voting:
Unanimously Approved

3. COMMENTS FROM THE BOARD AND SUPERINTENDENT

Michelle Maginot:

- Listened to community concerns.
- Thanked the District Office Staff for the Community Forum held on March 16, 2021.
- Expressed and informed the community about the upcoming Board Office Hours.

Jeff Arnett:

- Listened to community concerns.
- Reflected on policies and some obstacles to move communities forward.
- Expressed having Trustee Voting Areas as a topic for a future meeting.

Nancy Newkirk:

- **DISTRICT**
 - Attended YMCA Project Cornerstone Parent Workshop *Managing Stress and Fostering Resiliency*
 - Conversated with Dr. Gallagher; with Trustee Jubes-Flamerich
 - Read SCCPHD updates; WP article n school reopening
 - Answered prep questions for Project Cornerstone seminar on April 6th
- **CSBA**
 - Responded to CSBA call for new blog. Sent in list of initiatives that Board has done during this pandemic
 - Legislative Action Week: pre-training and preparation material reading, local meeting with CSBA Pacer
 - Participated in tw CSBA Webinars: Redistricting and AB 26 School reopening
 - Education Advocacy Schedule meeting with Sen. Josh Becker
 - Read February issue California School News
- **SCCSBA**
 - Drafted letter fr Legislative Advocacy Committee in advocacy for equitable vaccine distributions in our county as an initiative from Sen. Cortese
 - Met with Julie Kasberger abut possible federal food program advocacy
 - Attended SCCSBA Legislative Virtual Brunch
- **LPC**
 - Participated in the LPC Executive Committee meeting to prepare for the annual general meeting focused on New Master Plan for Early Learning and Care and transitions for CDE to HHS
 - Attended General meeting discussed early care legislation
 - Forwarded information about Santa Clara County childcare zip codes priorities to our staff.
- **Webinars**
 - *Leading Local: Role of Local Governments in Times of National Crisis* sponsored by Institute for Local Governments
 - Spring consortium for English Language Learner Success

- Wellness Together Youth Mental Health Spring Series *Teaching the Social Dilemma Taking Back Control for Tech*
- **Community Meetings**
 - Livable Sunnyvale Moffett Park Subcommittee
 - Aging Friendly Sunnyvale
- **Public Announcements**
 - *March is National Social Workers Month.* We especially recognize their support of students, staff, and families during this pandemic. Every day our social workers are there helping students meet their social emotional needs so that they can be ready to learn. Thank you for the partnership.
 - *Oral Health Day is March 20th:* We have to remember that oral health is important too. Studies have shown that poor oral health can influence children's participation in school and that may negatively impact their academics. The pandemic has delayed exams. Try to get back on a regular cleaning and dental exam schedule with your dental care provider. And If your child does not have a dental home, please contact your school site for support.
 - *Project Cornerstone Workshop April 6th.* The next topic in this series is Courageous Conversations About Race, Racism, and Equity. While this workshop for parents is free a sign-up is required. It will be facilitated by Ziem Neubert, M.Ed.

Bridget Watson:

- **Volunteered:**
 - Grocery delivery to SMS Students
 - 3rd Grade Classroom support, Cherry Chase
 - ELD 1 - SMS, CMS
 - EL Support SMS
 - Tutorial - SMS
 - Delivered groceries to SMS students with transportation issues
- **Attended:**
 - SCCSBA Legislative Brunch
 - SCCSBA Legislative Actin Committee Subcommittee: Meeting with Senator Cortese
 - CSBA Legislative Actin Week: Meeting with Assembly member Marc Berman
 - SMS Coffee with the Principal
 - SMS Latinx Parent Meeting
 - SSD Community Meeting on Reopening
 - SSD Facilities Master Plan Steering Committee Meeting
 - SSD Food Services Informational Meeting: Laurie, Mike, Isabel, and Sodexo
 - SCCSBA Legislative Actin Committee Monthly Meeting
 - Sunnyvale Education Foundation (SEF) Board Meeting
 - SEF Ad Hoc Fundraising Committee Meetings (x2)

Isabel Jubes-Flamerich:

- Volunteering in delivering food to students.
- Attended Masters In Governance session.

Superintendent Dr. Gallagher:

- Informed the Board on a future Resolution Supporting People of Asian Ancestry and Condemning Harassment, Violence and Hatred toward People of Asian Descent
- Visited sites as students returned to campus for In-Person Instruction.
- Informed the Board about having two more Forums in the next month to continue discussing reopening progress and in the Fall.

4. COMMENTS FROM THE SUNNYVALE EDUCATION ASSOCIATION

Wendi Smith, SEA President, thanked the Board for the continued support in safely reopening school sites. Ms. Smith expressed the valued partnership between SEA and the District and expressed how 366 teachers make up the SEA Union group.

5. COMMENTS FROM THE CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION

Oscar Jauregui, CSEA President, thanked the Classified employees for their continued efforts in supporting all the sites especially the Student Nutrition Workers.

6. COMMENTS FROM THE PUBLIC

Michelle Koo, teacher, expressed and acknowledged the anti-Asian violence in the community.

Aarthi Ramaswamy, parent, expressed concern on inclusivity and diversity with the Equity Statement.

Donald Pearson, teacher, thanked the Board for their dedicated work during the trying times of COVID. Mr. Pearson stated that it was a year of learning as guidelines changed.

Vivek, parent, expressed concern on the STAR Testing.

7. REVIEW AND DISCUSSION

A. Return to In-person Instruction Progress

Superintendent Dr. Gallagher, Asst. Superintendent's Jeremy Nishihara, Tasha Dean and Mala Ahuja, and, Chief Operations Officer Rob Smiley presented on the Return to In-Person Progress. (See PowerPoint for details)

*The Board of Education extended the public comments on this item from 20 to 40 minutes. Each speaker would be allowed 2 1/2 minutes.

The following speakers expressed concern and/or provided input for In-Person Instruction in the current school year and for the Fall of 2021:

Rebecca Lucky, Ofir Mulla, Maite Malfetano, Michelle Koo, Nir Harif, Jesse Weinstcok, Uri Tal, The Gundersons, Eric Gunderson, Aarthiyi Ramaswamy, Karolina Krasinska, Nicole Leonard, Keren Boiman, and, Susmita Chatterjee.

B. 2021-22 Sunnyvale Middle School Bell Schedule

BREAK : 9:48 - 9:55 PM

Principal Edwards presented on the 2021-2022 Sunnyvale Middle School Bell Schedule (See PowerPoint for details).

8. REVIEW AND ACTION

A. Approval of Discipline and Expulsion Plan

Asst. Superintendent Dr. Dean presented on the Discipline and Expulsion Plan.

Motion made by: Jeff Arnett

Motion seconded by: Bridget Watson

Voting:

Jeff Arnett - Yes

Michelle Maginot - Yes

Nancy Newkirk - Not Present

Bridget Watson - Yes

Isabel Jubes-Flamerich - Yes

9. CONSENT AGENDA ITEMS

On motion by Jeff Arnett and second by Bridget Watson, the Board of Education pulled item #A for discussion and approved items #B through #E.

A. Approval of Minutes

On motion by Bridget Watson and second by Isabel Jubes-Flamerich, the Board of Trustees approved the Amended Minutes to 3/4/21 Board Meeting by adding activities for Trustee Jubes-Flamerich. (VOTE: 4-0)

Motion made by: Bridget Watson

Motion seconded by: Isabel Jubes-Flamerich

Voting:

Jeff Arnett - Yes

Michelle Maginot - Yes

Nancy Newkirk - Not Present

Bridget Watson - Yes

Isabel Jubes-Flamerich - Yes

B. Approval of Personnel Assignment Order 20-11

Motion made by: Jeff Arnett

Motion seconded by: Bridget Watson

Voting:

Jeff Arnett - Yes

Michelle Maginot - Yes

Nancy Newkirk - Not Present

Bridget Watson - Yes

Isabel Jubes-Flamerich - Yes

C. Approval of Assignment of Credentialed Personnel

Motion made by: Jeff Arnett

Motion seconded by: Bridget Watson

Voting:

Jeff Arnett - Yes

Michelle Maginot - Yes

Nancy Newkirk - Not Present

Bridget Watson - Yes

Isabel Jubes-Flamerich - Yes

D. Approval of General Contractor Agreements (Document Tracking Services, Cleary Consultants, Inc., 101 Builders, Inc, 101 Builders, Inc, Sodexo America, LLC)

Motion made by: Jeff Arnett

Motion seconded by: Bridget Watson

Voting:

Jeff Arnett - Yes

Michelle Maginot - Yes

Nancy Newkirk - Not Present
Bridget Watson - Yes
Isabel Jubes-Flamerich - Yes

E. Approval of the Purchase Order and Warrant Reports

Motion made by: Jeff Arnett
Motion seconded by: Bridget Watson
Voting:
Jeff Arnett - Yes
Michelle Maginot - Yes
Nancy Newkirk - Not Present
Bridget Watson - Yes
Isabel Jubes-Flamerich - Yes

10. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

None

11. CONVENE TO CLOSED SESSION

10:34 PM

A. Conference with Labor Negotiator (Gov. Code 54957.6): SEA, CSEA

12. RECONVENE TO OPEN SESSION

10:55 PM

A. Closed Session Announcements

No action taken.

13. FUTURE MEETINGS/ADJOURNMENT

10:55 PM

The Board of Education adjourned the meeting.

Clerk, Board of Education

Date Approved



Plan for Expelled Youth

Tasha L. Dean Ed.D., Assistant Superintendent of Student Services

Sharmila Velmurugan, Student Services Technician

SUNNYVALE SCHOOL DISTRICT
PLAN FOR SERVING EXPELLED STUDENTS
IMPLEMENTATION
Of
EDUCATION CODES
48916.1
Developed by
Sunnyvale School District
2021

Why is this plan being developed?

1. Education Code 48926 requires:
 - (a) each District and the County Office of Education develop a plan for providing education services to all expelled pupils,
 - (b) adoption of the plan by the district's governing board,
 - (c) adoption of the plan by the county office of education governing board.

2. The required plan must:
 - (a) identify existing educational alternatives for expelled pupils, during and post Coronavirus (COVID-19)
 - (c) identify gaps in educational services to expelled pupils, during and post Coronavirus (COVID-19)
 - (d) identify strategies for filling service gaps,
 - * fail to succeed in Community Day School Programs
 - * fail to meet the terms and conditions of their rehabilitation plan
 - * pose a danger to other district pupils

3. The County Superintendent of Schools is required to submit the plan to the State Superintendent of Schools by June 30, 2021 and update the plan every three years.

EXISTING EDUCATIONAL ALTERNATIVES FOR
EXPELLED STUDENTS

Sunnyvale School District

District Existing Education Alternatives for Expelled Youth

The Sunnyvale School District offers the following options for expelled youth, depending on the specific offense and Education Code violation:

1. Suspended expulsion with placement on the same school campus within the District
2. Suspended expulsion with placement on a different school campus within the District
3. Suspended expulsion with placement in Independent Study, (if the parent agrees)
4. Expulsion with referral to the Santa Clara Unified Community School Program (grades 6-8)
5. Expulsion with placement on home teaching
6. Expulsion with referral to Santa Clara County Community School Program (grades 6-8)

CURRENT EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

Santa Clara County Office of Education

The Sunnyvale School District will continue to provide educational options for expelled students. Santa Clara Unified Community School program meets the needs of the Sunnyvale School District students who have been expelled. The Santa Clara Unified School District Community School program offers the following:

1. Daily educational programs that meet the 240 – 360 minutes per day in community classrooms
 - (a) including smaller class sizes and a higher staff to student ratio

Sunnyvale School District also refers expelled students to the Santa Clara County Office of Education Alternative School program as appropriate.

Gaps and Strategies in Education Services for Expelled Students and Strategies for filling Those Gaps

There are four major gaps that exist in respect to providing educational services to expelled students. Following each identified gap is the strategy for addressing these gaps:

1. Identified Gap

It is possible under Education Code 48916.1a that a student would not be expelled. As an example, a student who has been expelled from the District under Educational Code 48915 and referred to the County Office Community School program could commit another violation of Education Code 48914 and ultimately be referred back to the Sunnyvale School District.

Strategy for Addressing Gap

The Sunnyvale School District continues to collaborate with neighboring districts and nonpublic schools in providing a regional option to refer appropriate students to as needed. The District will also use our Independent Study program to include targeted supports that will allow the district to place a few students a year who are able to meet their goal set in the program.

Expelled students, who have failed their placement in the Sunnyvale programs or Independent Study option may be referred to the county-operated Community School. If the student fails the program or commits another expellable offense, there may not be any viable alternative remaining. Sunnyvale continues to work with agencies in the county to address the needs of students & will work with the county to address additional concerns related to COVID-19 for students.

The Sunnyvale School District will continue to use existing educational strategies and programs to meet the needs of expelled students including but not limited to independent study and homeschooling. Santa Clara County Office of Education continues to provide educational services to those eligible students placed or referred to Community School/Day Center Programs and is used as an alternative when the regional collaborative programming is not a viable placement. The District continues to work with community agencies and the County Office of Education on possible Blended Learning Models to better support students with diverse learning needs, during COVID-19 and post COVID-19, Blended Learning Options are critical.

2. Identified Gap

Small school districts generally expel very few students during the course of a school year; so few students are expelled, that having a specialized class or program for such students, located in each district, is not financially or geographically possible.

Strategy for Addressing Gap

The Sunnyvale School District continues to collaborate with the Santa Clara County Office of Education on possible program options to assist with the educational needs of middle school students. In addition, the District will continue working with Community Health Awareness Council (CHAC), Ester B. Clark, and other community agencies/programs as we design program options for students.

3. Identified Gap

Students in grades Kindergarten through fifth, who are expelled, do not have the same educational options available as do expelled youth who are in grades six, seven, and eight, due to the limited number of students who are expelled in the lower grades. These younger students cannot attend the programs designed for middle and high school students. Sunnyvale will use its Independent Study option when appropriate and needed for students. In the past few years, Sunnyvale has not had an elementary expulsion case.

Strategy for Addressing Gap

The Sunnyvale School District will continue to provide alternatives to expulsion such as reassignment to other schools in the district and homeschooling as appropriate. Options for K-8 districts continue to be limited and Sunnyvale has maintained ongoing conversations regarding the importance of our community being proactive in its approach and in providing meaningful interventions for students and parents. The District works closely with the City of Sunnyvale to look at community options for mentoring after school and on weekends for students. The District offers Parent Project for parents K-8 including classes for Spanish speaking parents. Sunnyvale's program offerings focus on prevention and being proactive regarding students' and families' needs. The goal is to see continued success with the program supports and resources provided that allow students to be in school, learning, and safe.

Effective Practices:

- During 2018-2019 the district transitioned from a Student Review Team to Site and a District MTSS team that focuses on systems. Cases that are challenging and require additional support are referred to the District SARB for input & next steps.
 - Site SST/RTI and MTSS team(s)
 - District level Behavior and Attendance Review Team (MTSS/SARB)
 - Continued coaching and support for Positive Behavior Intervention Systems (PBIS) at each site. This work is now facilitated by the site Culture and

Climate Teams that meet monthly with the Social Emotional Learning Coach and Coordinator of Behavior Intervention Services.

- The goal of the teams is to look into alternatives for suspensions and expulsions and ongoing collaboration with Site and District teams to support the whole child.
- The functioning of the teams:
 - Each case is reviewed by the team
 - Based on the individual student concerns, individualized interventions are developed
 - The student is monitored to ensure fidelity of intervention implementation
- Composition of MTSS team:
 - District and School Administrators
 - School Psychologists
 - Social worker/counselor
 - Sunnyvale Police
 - Community Member
 - Teacher(s)
 - Other Staff (Speech)
- Advantages of creation of the team:
 - Maintaining 0-1 number of expelled students
 - Accept a universal behavior/SEL screener for the District
 - Increase the use of school-wide, universal academic and behavior data
 - Improve use of evidence-based academic, behavioral, and attendance practices
 - Review & evaluate tiered interventions for academic, behavioral, and socio-emotional needs of students
 - Positive, student-centered interventions implemented with fidelity
 - MTSS team communicates data to staff, parents, and students as appropriate
 - Academic, behavioral, and socio-emotional data is included in MTSS/SST plans at each tier.

Three-Year Expulsion Plan

Between

Union School District



And

The Santa Clara County

Office of Education

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Information in Regard to Adoption of Expulsion Plan

At a board meeting held on **May 10, 2021**, Union School District Board of Trustees approved the Three Year Expulsion Plan, which follows the Countywide Expulsion Plan developed by Santa Clara County for the implementation of Education Code 48916.1.

School Board meeting agenda and minutes from the May 10, 2021 will be inserted here documenting board approval.

Union School District Plan - Educational Alternatives for Expelled Students

Union School District's (USD) Plan for students potentially facing expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for one-time acts of a grave nature, expulsion is usually used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, and/or when the students' presence causes a continuing danger to other students.

All USD schools offer positive behavior intervention strategies for all students. These strategies assertively promote good decisions, ethical reasoning, kindness, appreciation of other cultures and community service. School surveys show an increase in student satisfaction and feeling of "connectedness" at school. This increase in student satisfaction in USD is attributed to the District's commitment to creating and maintaining a positive, proactive school environment.

All six elementary sites now have dedicated mental health therapist and school psychologist support for students. The district has also added increased mental health support at both middle school sites to promote student wellness.

USD offers the following options for expelled youth, depending on the specific offense and Education code violations:

1. Suspended expulsion with placement on the same or different school campus within USD.
2. Suspended expulsion with placement on a different school campus in a neighboring district.
3. Stipulated expulsion, with placement at another district school, local school, home instruction or county office alternative program. USD has an agreement with the Cambrian School District to seek alternate placement for a student, elementary or middle school age, who has been expelled from USD.
4. Expulsion with referral to a county community day school program or exchange with a local school district.

Community school programs available to expelled Union School District students include: Stonegate Community Park School, Community Alternative Program and Independent Study.

The Board of Trustees reviews the recommendation of the Administrative Hearing Panel and/or Chairperson of the Administrative hearing Panel and makes the final referral for placement for all expelled students.

Gaps in Educational Services for Expelled Students and Strategies to Address the Gaps

Typically, expelled youth attend a Santa Clara County alternative program. The number of age appropriate, local alternatives for students is limited. The district is working collaboratively to create local, personalized, differentiated programs for expelled youth. Two main gaps identified and addressed are as follows:

Gap #1: Students in grades three through five who are expelled do not have the same educational options available as do expelled youth who are in grades six through eight, due to the limited number of students who are expelled in these lower grades. Students at these grade levels need

more personal, local, family-involved, age-appropriate alternatives to support positive academic and social development.

Strategies Implemented to Address Gap: USD will be collaborating with local districts to develop a quality program that supports these students, academically, emotionally, and socially. USD will also explore online programs, supported by home instruction.

Gap #2: Students in grades 6-8 need a local school alternative. The current middle school county alternative program is approximately 12 miles from USD and poses transportation difficulties for USD families. In addition, USD seeks to include these students as part of the USD community for closer monitoring, feedback to families, and smoother transition after the expulsion process.

Strategies Implemented to Address Gap:

USD will collaborate with local districts to develop a quality program that supports these students, academically, emotionally, and socially, as noted above. USD will explore online programs, supported by home instruction that provides engagement, differentiation and family involvement/support.

Alternative Placements for Students Who Fail Community Day School Placements

Step I:

The school district of residence continues to maintain responsibility for developing a rehabilitation plan for the student, referring the student to an appropriate educational setting and ensuring that an educational program is provided either within or outside of the school district.

Step II:

Expelled students who fail to meet the terms and conditions of the district rehabilitation plan may be referred to another district program, a local school district, or a County Community Day School Program. Expelled students are referred to a Santa Clara County Office of Education (SCCOE) Community School, which is a permissive program. Students attending this program will be given an Individual Learning Plan that is developed with the students' parents and SCCOE staff. Part of this plan may include a goal returning to the school district of residence after the district expulsion term. If students fail the county-operated program, they are referred back to the district for possible review and replacement.

Summary

A student is expelled in USD for single acts of a grave nature, when other forms of discipline have failed to bring about proper conduct, and/or when the student's presence causes a continuing danger to other students. The grounds for suspension and the process for implementing expulsion are specified in the District's Administrative Regulations and are in accordance with Educational Code 48900 and 48915. USD administration proactively informs all students and parents/guardians of the school's discipline rules and implements character building into curriculum, while promoting a positive, safe school environment for all. Expulsion is only implemented if necessary. The District is now seeking ways to collaborate with local districts to provide a personal, localized, age-appropriate, supportive educational alternative for grades 3-8 expelled students.

Plan for Providing Educational Services to All Expelled Students in Santa Clara County

California Education Code Section 48926 states "each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county." This section of California Education Code also states that "The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

Existing Educational Alternatives for Expelled Students

All educational alternatives provided by California’s school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to

students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Santa Clara County Alternative Education Programs

The Santa Clara County Office of Education offers educational alternatives to expelled students through community schools. The expulsion status of a student has no negative impact on eligibility or placement.

Community school enrollments require referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c). School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program or blended learning through an intervention process to include but not limited to: Student Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education are as follows:

Community Schools

Sunol 6-12

South County grades 6-12

Countywide Identified Gaps

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings
2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.
3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.
4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program.

USD Board Policies Specific to Expelled Youth

Policy 5144.1: Suspension And Expulsion/Due Process
Original Adopted Date: 04/15/2019

Status: Board Review

The Board of Trustees desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-8" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and

mandatory expulsion" acts at school, at a school activity off school grounds, or to or from school:
(Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following:
(Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, students with disabilities, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

Legal Reference:

EDUCATION CODE

[212.5](#) Sexual harassment

[233](#) Hate violence

[1981-1981.5](#) Enrollment of students in community school

[8239.1](#) Prohibition against expulsion of preschool student

[17292.5](#) Program for expelled students

[32261](#) Interagency School Safety Demonstration Act of 1985

[35145](#) Open board meetings

[35146](#) Closed sessions (regarding suspensions)

[35291](#) Rules (for government and discipline of schools)

[35291.5](#) Rules and procedures on school discipline

[48645.5](#) Readmission; contact with juvenile justice system

[48660-48666](#) Community day schools

[48853.5](#) Foster youth

[48900-48927](#) Suspension and expulsion

[48950](#) Speech and other communication

[48980](#) Parental notifications

[49073-49079](#) Privacy of student records

[52052](#) Numerically significant student subgroups

[52060-52077](#) Local control and accountability plan

[64000-64001](#) Consolidated application

CIVIL CODE

[47](#) Privileged communication

[48.8](#) Defamation liability

CODE OF CIVIL PROCEDURE

[1985-1997](#) Subpoenas; means of production

GOVERNMENT CODE

[11455.20](#) Contempt

[54950-54963](#) Ralph M. Brown Act

HEALTH AND SAFETY CODE

[11014.5](#) Drug paraphernalia

[11053-11058](#) Standards and schedules

LABOR CODE

[230.7](#) Employee time off to appear in school on behalf of a child

PENAL CODE

[31](#) Principal of a crime, defined

[240](#) Assault defined

[241.2](#) Assault fines

[242](#) Battery defined

[243.2](#) Battery on school property

[243.4](#) Sexual battery

[245](#) Assault with deadly weapon

[245.6](#) Hazing

[261](#) Rape defined

[266c](#) Unlawful sexual intercourse

[286](#) Sodomy defined

[288](#) Lewd or lascivious acts with child under age 14

[288a](#) Oral copulation

[289](#) Penetration of genital or anal openings

[417.27](#) Laser pointers

[422.55](#) Hate crime defined

[422.6](#) Interference with exercise of civil rights

[422.7](#) Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:
<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students: <http://www2.ed.gov/about/offices/list/oese/oshs>

CAMPBELL UNION HIGH SCHOOL DISTRICT



PLAN FOR EXPELLED YOUTH 2021-2024

A PLAN BETWEEN THE CAMPBELL UNION HIGH SCHOOL DISTRICT
AND THE SANTA CLARA COUNTY OFFICE OF EDUCATION FOR THE
IMPLEMENTATION OF EDUCATION CODES 48915, 48916.1, AND
48926

ORIGINALLY PREPARED SPRING 1997

INTRODUCTION

California Education Code 48926 calls on counties and their school districts to develop a plan for providing educational services to all expelled pupils in their county. Specifically, the plan must:

1. Include existing educational alternatives for expelled students;
2. Identify gaps in educational services to expelled students and strategies for filling those service gaps; and
3. Identify alternative placements for students who are expelled and placed in district community day schools, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district students, as determined by the governing board.

The Santa Clara County of Education requires each district to update the Expulsion Plan every three years and submits a compiled county plan to the California Department of Education.

A student whose behavior has resulted in expulsion is provided a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined in this Expulsion Plan and/or Administrative Regulation 5144.1. A student who has not been expelled, but who is in need of an educational alternative, may also access these programs through a District and/or County referral process.

CAMPBELL UNION HIGH SCHOOL DISTRICT PLAN FOR EXPELLED YOUTH

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion (BP 5144.1).

Educational Alternatives for Expelled Pupils

The CUHSD offers the following interventions, programs, and supports:

- School sites communicate behavior and conduct expectations. These are included in the Student Handbooks which are available on school websites and included in the summer mailers for families. Administrators and teachers also communicate these expectations in class syllabi, classroom presentations, and grade-level meetings. Parents/Guardians confirm their understanding of student expectations through the yearly data confirmation process.
- All work at sites is informed by and anchored to the Multi-Tiered System of Supports (MTSS).
- Student Attendance Review Teams (SART) and Student Study Teams (SST) meet to review the needs of students who are struggling and to collaborate on recommendations and strategies for improvement.
- Progressive discipline is utilized, and includes - but is not limited to - detention, Friday School, Saturday School, Restriction from Extracurriculars, Social Probation, Behavior Contracts, etc.
- Tobacco Use Prevention Program (TUPE).
- Administrators are trained in the use of Restorative Practices (RP) and apply the philosophy and strategies to their work with students.
- Students are referred to the Brief Intervention (BI) Counseling program, offered by Uplift counselors, when faced with drug or alcohol issues or violations. This is also utilized as an alternative to suspension.
- Mental Health supports are available on campuses: Uplift counselor, CASSY counselor, Wellness Center pilot and the academic counselors.

The CUHSD offers the following options for expelled youth, depending on the specific offense and Education Code violation:

- Expulsion, suspended order, with placements on the same school campus (Ed Code 48917(a)).
- Expulsion, suspended order, with placement on a different school campus within the District (Ed Code 48917(a)).
- Expulsion, suspended order, with placement in a district Independent Studies program (Ed Code 48660).
- Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School (Sunol), Education Code 1981.

Districtwide Gaps in Educational Services to Expelled Youth

1. Our last expulsion plan submission did not outline the actual practice of CUHSD, but spoke in broader terms about the agreement we have to work with Santa Clara County Alternative Education and within the guidelines of CA Educational Code and Board Policy. Since then, we have worked to compile an accurate picture of our practices and processes in order to capture that in this plan submission.

2. It is difficult to determine the efficacy of strategies within the last three years, since school buildings closed in March of 2019 and discipline instances have declined dramatically. There have not been any recommendations for expulsion in our district since January 2020. All students who were expelled from 2018-2021 were given placements and a rehabilitation plan.
 - a. 57% placed at Sunol
 - b. 7% placed at district Adult Education (stipulated agreement)
 - c. 7% placed in district Independent Study Program
 - d. 21% placed at other district site
 - e. 8% placed at school outside district; student residency changed during expulsion proceedings
3. CUHSD will put in place methods by which to analyze the efficacy of rehabilitation plans, and the success of expelled students. These rehabilitation plans are shared with the receiving institution, and require ongoing monitoring on their part. The Director of Student Services will be responsible for convening with the student and family at the end of the terms of the placement to determine if the student has completed and executed the conditions of the plan. A determination will be made based on evidence of the extent to which the plan has been met. For those students who have met the conditions of the plan under the prescribed time, their placement will be reevaluated and final determination made by the Governing Board. Presentation of this data to the Governing Board is required annually.

County Identified Gaps in Educational Services to Expelled Youth

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings
2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.
3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student

population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program.

Board Policies Specific to Expelled Youth

BP 5144.1 - SUSPENSION AND EXPULSION/DUE PROCESS

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5

under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Chronic Absence and Truancy)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm

involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property
243.4 Sexual battery
245 Assault with deadly weapon
245.6 Hazing
261 Rape defined
266c Unlawful sexual intercourse
286 Sodomy defined
288 Lewd or lascivious acts with child under age 14
288a Oral copulation
289 Penetration of genital or anal openings
417.27 Laser pointers
422.55 Hate crime defined
422.6 Interference with exercise of civil rights
422.7 Aggravating factors for punishment
422.75 Enhanced penalties for hate crimes
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act of 1995
626.10 Dirks, daggers, knives, razors, or stun guns
868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEBSITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

CAMPBELL UNION HIGH SCHOOL DISTRICT

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AR 5144.1 - SUSPENSION AND EXPULSION/DUE PROCESS

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet website, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Additional Grounds for Suspension and Expulsion: Grades 9-12

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

Suspension from Class by a Teacher

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code 48915(c))

The Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district

may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)
 - a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.
 - b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)
 - c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session)

The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent or principal shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication or other medication prescribed by a physician

4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

1. Receive five days' notice of the scheduled testimony at the hearing
2. Have up to two adult support persons present at the hearing at the time the witness testifies
3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. **Closed Session:** Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings

can be made. (Education Code 48918(g))

3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
 - a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person who is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. **Decision:** The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the

Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
- 4.
5. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
6. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))"
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

CAMPBELL UNION HIGH SCHOOL DISTRICT

Policy approved: November 1, 2018

Policy Revised: December 14, 2018

Policy revised: May 21, 2020



Agenda Item Details

Meeting	Apr 01, 2021 - Regular Board Meeting (agenda updated 3/29/21 at 1:39 PM)
Category	13. CONSENT ITEMS: EDUCATIONAL SERVICES
Subject	A. Approve updated Plan for Expelled Youth for 2021-2024
Access	Public
Type	Action (Consent)
Fiscal Impact	No
Recommended Action	It is recommended by the Superintendent that the Board of Trustees approve the Plan for Expelled Youth for 2021-2024.

Public Content

Support Information:

California Education Code 48926 calls on counties and their school districts to develop a plan for providing educational services to all expelled pupils in their county. Specifically, the plan must:

1. Include existing educational alternatives for expelled students;
2. Identify gaps in educational services to expelled students and strategies for filling those service gaps; and
3. Identify alternative placements for students who are expelled and placed in district community day schools, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district students, as determined by the governing board.

The Santa Clara County of Education (SCCOE) requires each district to update the Expulsion Plan every three years and submits a compiled county plan to the California Department of Education. In developing this updated plan, we have consulted with SCCOE officials in their editing and alignment sessions. The plan follows the template provided and has been verified to contain all necessary elements.

[2021_2024_Plan_for_Expelled_Youth_CUHSD.pdf \(294 KB\)](#)

Action on all Consent Calendar items will be acted upon in one motion, with no discussion prior to the Board vote, unless a board member or the superintendent requests that any such item be removed from the Consent Calendar for discussion by trustees or any interested party. Each Consent item approved by the Board shall be deemed to have been considered in full and adopted as recommended.

Motion & Voting

It is recommended that the Board of Trustees approve the Consent Calendar as presented.

Motion by Robert Varich, second by Kristiina Arrasmith.

Final Resolution: Motion Carries

Aye: Kalen Gallagher, Linda Goytia, Kristiina Arrasmith, Stacey Brown, Robert Varich



Preparing every student to thrive in a global society.

Agenda Item Details

Meeting	Apr 22, 2021 - ESUHSD REGULAR BOARD MEETING -- AMENDED
Category	21. WRITTEN REPORTS/RECOMMENDATIONS
Subject	21.02 Receive East Side Union High School District's Plan for Educational Alternatives for Expelled Youth – Dr. Chaunise Powell, Director of Student Services, and Teresa Marquez, Associate Superintendent of Educational Services
Type	Discussion, Receive Report (Action)
Fiscal Impact	No
Recommended Action	It is recommended that the Board of Trustees receive East Side Union High School District's Plan for Educational Alternatives for Expelled Youth.

As mandated by Education Code 48926, each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled students in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing education alternatives for expelled students, identify gaps in educational services to expelled students, and strategies for filling those service gaps. The plan shall also identify alternative placements for students who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district students, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled students in the county no later than June 30, 2018, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

Per Education Code 48916.1, at the time an expulsion of a student is ordered, the governing board of the school district shall ensure that an education program is provided to the student who is subject to the expulsion order for the period of the expulsion. Except for students expelled pursuant to subdivision (d) of Section 48915 (related to the five (S) offenses mandatory for recommendation of expulsion/to expel), the governing board is required to implement the provisions of this section only to the extent funds are appropriate for this purpose in the annual Budget Act or other legislation, or both.

PUBLIC COMMENT

Persons wishing to address the Board must fill out a speaker request form via online submission at <https://forms.gle/bEhz1m1k9KB2xupy6> (limited to no more than 1,000 characters in length).

Please reference in your submission the agenda item number for your comment. Your comment will be read out loud as part of the public meeting.

You may also raise your virtual hand in Zoom to request to speak. You will have two minutes to speak.

ESUHSD Expulsion Plan.pdf (553 KB)



East Side Union High School District

Expulsion Plan 2021-2024

Introduction

Every three years, East Side Union develops a plan to support at-risk youth within the district who are at risk of expulsion or who have been expelled. Our mission as a Department of Student Services is to support schools, students, and families build and sustain equitable communities through the development of school cultures that use inclusive and relationship-centered practices to support positive attendance, social emotional and behavioral wellness. We believe that in doing so students stay engaged in their learning environment and leads to safe and healthy school communities.

East Side Union High School District has a clearly delineated process for those at-risk of expulsion and for students who have been expelled. Our process provides full due process for each student and their families. The focus is on making decisions that will provide the student with opportunities to continue to make progress toward positive academic and behavior outcomes.

East Side Union HSD: Multi-tiered System of Supports (MTSS)

East Side Union believes in building equitable communities through MTSS. MTSS is a framework that brings together academic, behavioral and social emotional support in order to ensure every student receives what he or she needs to be successful. The behavioral and social emotional domains of our MTSS framework are supported through the implementation of Positive Behavioral Interventions and Supports (PBIS). PBIS is a framework for enhancing and implementing a continuum of evidenced-based interventions to achieve socio-emotional and behaviorally important outcomes for all students. In order to ensure that equity is centered in our behavior responses we are now in the process of ensuring that all of our behavior responses use restorative practices as the approach. The process of Restorative Practices requires collaboration from all stakeholders responsible for addressing and or handing out discipline. The concept of Restorative Practices allows adults to deepen adult-to-adult relationships and student's and staff to repair harm imposed upon the school community. It also provides opportunity for the student, staff and/or family to take full responsibility and accountability for their actions in a proactive fashion. Suspensions and expulsions result in the removal of students from the school community, but often fail to deal with the root cause or allow for harm to be repaired, restored, or reconciled. Our Restorative Practices model will include the response and approach of teachers, administrators central office, student advisors, social workers, and all staff. Our Restorative Practices model will not result in the total removal of suspensions and expulsions, but it will look at ways to productively restore, as a first layer of intervention, as opposed to using suspension as a first reaction.



Tiered Approach to Address Behavior & Social Emotional Needs

Improving student behavior outcomes is about ensuring all students have access to the most effective and accurately implemented behavior systems, interventions and supports possible. PBIS provides an operational framework for achieving these outcomes. PBIS assists in the selection, integration, and implementation of evidence- based behavioral practices for the purpose of equipping students for behavioral and social success. In general, PBIS emphasizes four integrated elements:

1. Data-based decision making,
2. Measurable outcomes supported and evaluated by data,
3. Practices with evidence these outcomes are achievable
4. Systems that efficiently and effectively support implementation of these practices.

These four elements are guided by six important principles:

- Develop a continuum of scientifically based behavior interventions and supports,
- Use data to make decisions and solve problems,
- Arrange the environment to prevent the development and occurrence of problem behavior,
- Teach and encourage prosocial skills and behaviors,
- Implement evidence-based behavioral practices with fidelity and accountability,
- Universal screen and monitor student performance & progress continuously.



Schools that establish systems with the capacity to implement PBIS with integrity and durability have teaching and learning environments that are:

- Less reactive, aversive, dangerous, and exclusionary,
- More engaging, responsive, preventive, and productive,
- Proactive in addressing classroom management and disciplinary issues including attendance, tardies, and antisocial behavior.

Using PBIS our schools organize their evidence-based behavioral practices and systems into an integrated collection or continuum in which students experience supports based on their behavioral responsiveness to intervention. A three-tiered prevention logic requires that all students receive support at the universal or primary tier. If the behavior of some students is not responsive, more intensive behavioral supports are provided, in the form of a group contingency (selected or secondary tier) or a highly individualized plan (intensive or tertiary tier).

Tier 1 – Positive Behavior Interventions and Supports

All school sites are responsible for implementing the following at the Tier 1 Level:

- Defined Expectations by context of the school
- Expectation taught and reviewed on a regular bases
- Acknowledgement System that is well defined and easy to use to honor students who demonstrate the expectation
- Correction System to support students with meeting the expectation
- Data System to capture and produce useful behavior reports

Defining Expectations

Each site develops school-wide expectations for behavior, defined by common area locations on campus.

Teaching Expectations

Behavior core instruction is provided by classroom teachers in collaboration with student advisors at a regularly scheduled, neutral time. The teaching of expectations continues throughout the entire school year. Behavior expectations are taught in the same manner which academic skills are taught. Introduce the skill by name at a scheduled (neutral) time. Provide a rationale as to why appropriate use of the skill is important along with examples of how to use the skill in different settings. Discussion, modeling, and practice are included within the lesson. In addition to teaching behavioral expectations.

Acknowledge and Correct Behavior

Once expectations have been taught at a neutral time, acknowledgement and correction (enforcement) continue throughout the remainder of the day, week, and year by all staff. Depending on the setting (common area, classroom, office, etc.) and level of need, acknowledgement and correction will sound somewhat different.



Tier 2 – Positive Behavior Interventions and Supports

At the Tier 2 level, targeted interventions and supports are offered to small groups of students. These interventions and supports are based on the function of the behavior. Some of these groups include:

- Social Skills
- Prosocial Activities
- Restorative Circles
- Social Emotional/Mental Health Groups
- Substance Use Groups
- Check-in Groups

Tier 3 – Positive Behavior Interventions and Supports

At the Tier 3 level, individualized interventions and supports are offered to individual students. Some of these interventions and supports include:

- One-to-one counseling
- Family Conferences
- Academic Tutoring
- Case Management
- Referral for instructional support team
- Wraparound in collaboration with community-based Agencies

East Side Union is committed to building equitable communities through the implementation of MTSS. Currently, we are working to build common assurances throughout our system in relation to our Tier 1. Over the next five years we will continue to expand this work to ensure common assurances within the Tier 2 and Tier 3 supports and interventions offered. MTSS is a systems approach to ensuring that the needs of all students are met.

Considerations

Supporting student behavior involves analyzing and modifying a student's environment in order to reduce the need for students to engage in problem behaviors. This can be done at each level of support: Tier I, II and III. It is important to remember that behavior always occurs within a context. Understanding the environmental factors that influence behavior is a key to supporting positive behaviors within the Tier I setting.

In addition, there is a need to consider families as critical contributors in supporting students to meet the school wide expectations. As a system, we are committed to increasing communication with families regarding student behavior. Both positive behaviors and providing feedback regarding areas of growth. Furthermore, all behavior related communications both written and oral will be provided in the families primary language.



Behavior Responses with Change of Enrollment

Transfer to another comprehensive school within the district (Grades 9 to 12)

Students may be placed at another high school in the district. This provides the student with a fresh start or access to special educational services which are not available at their neighborhood school of residence.

Specialized Placement or Program

In some cases, expelled students are placed or referred to specialized programs. Placement is informed by the student's needs and their IEP. Students who commit offenses that are a manifestation of their disability are not expelled but may be placed into an educational environment that is supportive of their needs and in compliance with their IEP.

Revocation of Interdistrict or Intradistrict Transfer (Grades 9 and 10)

Students who are on interdistrict and intradistrict transfers make an agreement that they will demonstrate positive citizenship by continuously engaging the schoolwide expectations. When students are not meeting these expectations support is provided. When support and intervention is not effective, consideration will be given to making a change in the environment. When change is in the best interest of the student a transfer agreement may be revoked in order to provide the student with a fresh start in a new environment.

District Operated Alternative Learning Option - Independent Study Program

Independent Study is an alternative program offered by East Side Union High School District. Instead of attending classes at school, students meet with a teacher 60-90 minutes each week, then complete all assigned work at home. Students may request to take a class at their home school if it is not offered through Independent Study. Independent students must attend state testing.

District Operated Alternative Learning Option – Continuation Education (Grades 11 to 12)

Apollo, Foothill, Pegasus and Phoenix High Schools provide students with an alternative educational setting to continue their learning. The smaller school setting allows for more individualized attention to student needs. Students are placed at one of our continuation school learning options as allowed by law.

Continuation schools are different from most traditional high schools in the state of California, in that it allows students to earn more than 5 credits every semester. In addition, students must attend school for at least 3 hours daily, additional time is spent providing students opportunities to work, take college courses, engage in career preparation programs



or earn additional credits.

Our continuation schools follow the same calendar as the rest of East Side Union High School District. However, instead of splitting the year into two semesters like a traditional high school, they are split into six weeks grading periods. Students can earn credits every six weeks. Semester end dates and holidays are the same as the other high schools in the district.

The student body at our continuation schools has always been relatively small, with our largest school being approximately 300 students. Most students are transfer students from other East Side Union High Schools who are low on credits. Once a student has a certain number of credits or whose involuntary transfer period has ended, he or she may choose to transfer back to their original school. Few students actually choose to do this.

Despite being a continuation school, the diploma received is recognized just like one from a traditional high school in California. A student needs 200 credits to graduate. The day a student successfully completes all graduation requirements is the day that they graduate. Given the many ways to earn credit, graduation can occur on any regular school day. Students who graduate midway through the school year are invited back in June to participate in a commencement ceremony.

District school site teams are expected to look at all of these options prior to moving towards expulsion. When a school site team determines that it is necessary to recommend a student for an involuntary transfer or expulsion they must submit a Student Discipline Review (SDR) to the Department of Student Services for review. A thorough review of the student's behavior, support offered, a meeting between the family and Director or Coordinator of Student Services and policy is taken into account prior to a decision being made to proceed with an expulsion hearing.

Considerations

Though we have a number of alternative learning options for students in East Side Union High School District, we recognize that we currently have a gap in our system. Learning options are essential in providing opportunities and access to students and families who feel that large school settings do not meet the needs of their students. When available they often support reductions in expulsion and behavior by providing a learning environment in which students feel comfortable engaging. There is a need to explore alternative learning options for 9th and 10th grade students who feel that smaller educational settings are more conducive to their learning style and needs. Over the next three years, we are committed to exploring possible solutions to address this need.

Expulsion

According to EC 48900.5, out of school suspensions "shall be imposed only when other means of correction fail to bring about proper conduct." Similarly, aside from EC 48915 (c) cases, expulsion should be considered only when other means of correction have routinely



failed. As indicated in EC 48900.5, Restorative Practices and Restorative Justice methods, by way of community building, repair building, and re-entry circles are excellent responses to student discipline.

Mandatory 48915 (c) Expulsion Referrals:

48915 (c) “The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.”

1. Possessing, selling, or furnishing a firearm
2. Brandishing a knife at another person
3. Unlawfully selling a controlled substance
4. Committing or attempting to commit a sexual assault
5. Possession of an explosive

Optional 48915 (a)(1) Expulsions Referrals:

48915 (a)(1) “...The principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.”

- A. Causing serious physical injury to another person...
- B. Possession of any knife or other dangerous object of no reasonable use to the pupil
- C. Unlawful possession of any controlled substance
- D. Robbery or extortion
- E. Assault or battery on a school employee

Under EC 48900 a-e and EC 48915 (a)(1) A-E (above), a decision to expel a student for any of those violations shall be based on a finding of one or both of the following:

- (1) “Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.” *Through the expulsion referral documentation this must be substantially proven through historic documentation. Proof cannot be based on perception or personal preference.*
- (2) “Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.” *Through the expulsion referral documentation this must be substantially proven through actually impacted student or district adult personnel declarations, and cannot be based on personal preference or perceptions.*

Under EC 48981, a decision to expel a student may not be based on hearsay alone unless there is substantial risk of psychological or physical harm to a witness.

The governing board of the school district or the hearing officer or



administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm.

Special Education & Section 504s: If a student with an IEP or 504 is recommended for expulsion, there must be a manifestation/determination meeting. A student may only be considered for expulsion if the behavior was not manifestation of the disability and the IEP was implemented.

Stipulated Agreements – In Lieu of Expulsion Hearing and Full Expulsion

A stipulated expulsion is a written expulsion agreement made outside of the expulsion hearing process. The student essentially admits that he or she committed a violation of school code that would qualify for an expulsion recommendation. However, instead of going through an expulsion hearing that could result in full expulsion from the school district, an alternative agreement is reached.

Alternatives to a full school expulsion include, but are not limited to:

- A behavior contract between the student and the school district in which the student is allowed to return to school and agrees not to commit further violations of the school code;
- An involuntary transfer to another school in the district or
- A suspended (probationary) expulsion with minimal terms.

Once a stipulated school expulsion agreement is reached, the student waives his or her right to a school expulsion hearing. All stipulated agreements to expulsion are reviewed and approved by the East Side Union High School District school board.

Expulsion Hearings

Per Education Code 48918 (b)(5) at any hearing, unless waived by the student/family, they have the right to 1) appear in person, 2) to employ and be represented by counsel, 3) to inspect and obtain copies of all documents to be used at the hearing, 4) to confront and question those who testify at the hearing, 5) to question all other evidence presented, 6) and to present oral and documentary evidence on the pupil's behalf, including witnesses.

The Director or Coordinator of the Department of Student Support Services will serve as the hearing officer. The hearing officer serves as a neutral party and is not a deciding member of a hearing panel, but will facilitate the flow of the hearing. Hearing panels will consist of three administrators or certificated staff with relatively little to no history of the student. Each school is responsible for presenting the facts of their expulsion case to the hearing panel. All expulsion hearings are recorded.

All expulsion packets are to be in line with education code requirements, sound, thorough,



well written, and illegible student statements must be typed by referring school personnel. Expulsion cases can be appealed to the Santa Clara County Office of Education, placing all documents, writings, and school/district professional decorum on stage.

The following are the descriptions of the district's existing educational alternatives and other services for expelled students.

Expelled Students

Students in grades 9 to 12 who are expelled for serious incidents where expulsion is mandatory are referred to Santa Clara County Community Schools. These schools and programs are especially designed to educate expelled students and offer a variety of classroom-based and independent student options to meet the student's needs. Participation in mental health services may be recommended or required.

Suspended Expulsions

In certain cases, suspending the expulsion order and allowing the student to attend school at a comprehensive school site in the district is more appropriate than expelling the student to an out-of-district school. Placement in every expulsion matter is determined on a case-by-case basis, and placement recommendations are made based on the incident, the student's background and history, the safety of the student and others, as well as all applicable Board Policies, Administrative Regulations and California Education Codes. During the term of the suspended enforcement of the School Board's expulsion order, the student is on a probationary basis, and must meet certain conditions to continue enrollment or the suspension of enforcement of the expulsion is revoked, and the student is placed in an appropriate alternative educational setting.

Students who do not complete their rehabilitation plan are transferred to the Santa Clara County Community School.

Rehabilitation Plan, Transition and Support

Students who are expelled receive support from the district. Student Services Specialists communicate with the county school staff and families. In addition, they continue contact with the student about progress made on the Rehabilitation Plan and establish a timeline for returning to the home district.

Re-Entry Plan & Case Management (Goal: By 2023 all students who are returning to the East Side Union High School District will have a re-entry plan and meeting).

Purpose: The *East Side Union High School District Re-Entry & Intervention Program* is designed to re-engage, reconnect, and prepare the following secondary populations for campus and academic success:

- Students returning from expulsion
- Students returning from Juvenile Hall/Camp

Traditionally the aforementioned populations struggle academically and behaviorally upon



re- entry because of the sudden shift within educational and campus dynamics. The purpose of this program is to reduce the predictability that such students will repeat with similar problematic behaviors and patterns.



VISION STATEMENT

Our youth become lifelong learners; informed and active citizens of the world; knowledgeable and self-directed members of the workplace; and discerning participants in the arts.

Fremont Union High School District

Board of Trustees Agenda

Regular Meeting

Tuesday, April 20, 2021

4:00PM Closed Session • 5:15PM Open Session

589 W. Fremont Avenue, Sunnyvale, CA 94087

The Board of Trustees meeting will be held at the Fremont Union High School District, Rooms 102 and 103, 589 W. Fremont Avenue, Sunnyvale, CA 94087. The public is invited to participate via Zoom. Here is the link: <https://fuhsd-org.zoom.us/j/99540249514>

To allow everyone to hear the proceedings, please mute your microphone when not speaking.

BOARD OF TRUSTEES

Rosa Kim

Jeff Moe

Naomi Nakano-Matsumoto

Roy Rocklin

Bill Wilson

STUDENT BOARD MEMBER

Juan Pedraza Arellano

SUPERINTENDENT OF SCHOOLS

Polly M. Bove

We welcome you to today's meeting of the Fremont Union High School District Board of Trustees. The public may provide comment relevant to agenda items at the time those items are under consideration. We would appreciate it if you would identify yourself with your name when addressing the Board. At the beginning of the meeting, the Board President will explain how members of the public may provide comment via the Zoom interface.

Any person with a disability may request this agenda be made available in an appropriate alternative format or that the District make a reasonable modification or accommodation to allow them to participate in the meeting. A request for a disability-related modification or accommodation may be made to the Superintendent's Office: (408) 522-2202, Monday - Friday, 8:00 AM to 4:30 PM. (Government Code §54954.2).

Note:

This meeting is being audio recorded for the purpose of preparing minutes. Pursuant to Government Code section 54953.5: Any district recording may be erased or destroyed 30 days after the meeting.

1. Call to Order

Convene no earlier than 4:00PM

Attendee Name	Present	Absent	Late	Arrived
Clerk Rosa Kim	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Trustee Jeff Moe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Vice President Naomi Nakano-Matsumoto	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Trustee Roy Rocklin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
President Bill Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

- 1.1. Announcement of Closed Session Agenda: Anyone wishing to address the Board on closed session matters may do so at this time.

2. Study Session - None Scheduled

3. Closed Session

4:00-5:00PM

- 3.1. Discussion of Personnel Report, including: Employment, Change of Status and Salary Adjustments, Leaves, and Separation from Employment (Public Employee Appointment, Employment, and Release per Government Code Section 54957)
- 3.2. Public Employee: Discipline/Dismissal/Release
- 3.3. Meeting with Chief Negotiator Superintendent Polly Bove to provide instruction regarding labor negotiations with the following groups of Employees: Fremont Education Association (FEA); California School Employees Association (CSEA), Chapter 237; Sunnyvale - Adult and Community Education Federation of Teachers (AFT), Local 6391; Unrepresented Employees: Management and Supervisory, including Superintendent, Deputy Superintendent and Associate Superintendents, (Pursuant to Govt. Code Section 54957)
- 3.4. Superintendent's Evaluation

4. Open Session - Flag Salute

Convene no earlier than 5:15PM

5. Adoption of Agenda**6. Announcement of Items Discussed in Closed Session and Actions Taken****7. Recognitions and Announcements**

- 7.1. Principal's Welcome - Bryan Emmert, Fremont High School
- 7.2. California School Employees Association (CSEA) and Fremont Education Association (FEA) Recognitions
- 7.3. Fremont High School ASB Presentation
- 7.4. Fremont High School Recognitions:
 - . Classified Employees-of-the-Year: **Hugo Cervantes** and **Paulo Sazon**, Network Systems Specialists
 - . Certificated Employee-of-the-Year: **Leo Flores**, Special Education Teacher
 - . Retirees: **Brian Irvine**, Social Science Teacher; **Carlos Ramos**, School Facilities Manager; **Jon Caward**, Art Teacher; **April Perez**, Executive Assistant
 - . Poster Students: **Juan Pedraza Arellano** and **Tulsi Prabhakaran**
- 7.5. Fremont Union High Schools Foundation's Student Recognition: **Audrey Su**
- 7.6. Fremont Union High Schools Foundation's Presentation to Fremont High School

8. School Reopening Update Convene no earlier than 6:15PM**9. Communications**

- 9.1. Public - A maximum of twenty (20) minutes is allotted for non-agenda items. Each speaker is limited to three (3) minutes. The Board President will provide instruction regarding public comment via the Zoom platform.
- 9.2. Association's Representatives - Reports on activities and/or issues. A maximum of five (5) minutes is allotted for each association.

10. Public Hearing - None Scheduled**11. Pupil Personnel - No Agenda Items****12. Consent Agenda**

- 12.1. Approval and Ratification of the Personnel Report Actions dated April 20, 2021

- 12.2. Approval of Purchase Orders from April 1, 2021 through April 14, 2021 Regarding Proposed Expenditures or Expenditure of Budgeted Funds
- 12.3. Acceptance of Donations as Specified and Sending Appropriate Letters of Appreciation
- 12.4. Approval of Agreement for Professional Services with Enrollment Projection Consultants for the Period July 1, 2021, through June 30, 2022
- 12.5. Approval of Consulting Services Agreement with Total Compensation Systems to Provide an Updated Actuarial Analysis as of June 30, 2021
- 12.6. Approval of Three Year Expulsion Plan

13. Teaching and Learning - No Agenda Items

14. Bond and Facilities - No Agenda Items

15. Bond and Facilities Consent Agenda

- 15.1. Approval of Agreement with Integrated Communication Systems for the Cupertino High School Athletic Field Improvements Project
- 15.2. Ratification of Agreement with Sonitrol Security for the Homestead High School Building A Classroom Modernization and Seismic Upgrades Project
- 15.3. Approval of Agreement with Sonitrol Security for the Lynbrook High School Auditorium Lobby Remodel Project
- 15.4. Approval of Agreement with HazMat Doc for Abatement Monitoring and Testing Services for the Lynbrook High School Auditorium Lobby Remodel Project
- 15.5. Approval of Amendment #1 to the Agreement Incorporating a Piggyback Contract for the Purchase and Installation of Office Furniture with Southwest School and Office Supply for the Lynbrook High School New Guidance and Support Services Building Project
- 15.6. Adoption of Resolution #2021-20 Supporting the Acceptance of the Agreement for Termination of Leases and Quit Claim Deed for the Monta Vista High School Buildings A, B and C Classroom Modernization Project
- 15.7. Approval of Termination Agreement of Leases and Quit Claim Deed with Lathrop Construction for the Monta Vista High School Buildings A, B and C Classroom Modernization Project

16. Business and Finance - No Agenda Items

17. Human Resources - No Agenda Items

18. Policies - No Agenda Items

19. Policies Consent Agenda

- 19.1. Review of Revisions to Administrative Regulation 3311.2, *Lease-Leaseback Contracts* and 3311.3, *Design-Build Contracts*

20. Other Official Business

- 20.1. Election of Candidates to California School Boards Association Delegate Assembly - Region 20

21. Communications

- 21.1. Public Communications (continued) - A maximum of twenty (20) minutes is allotted for non-agenda items. Each speaker is limited to three (3) minutes.
- 21.2. Board of Trustees - (The Board may give reports on any travel and committee meetings related to their duties as members of the FUHSD Governing Board)
- 21.3. Superintendent and Staff

22. Future Agenda Items

23. Calendar Coordination and Scheduling

24. Adjournment

Future Board Meetings

Tuesday, May 4 @ DO - DO/Adult School/EdOps: Closed Session 4:00PM; Open Session 5:15PM

Monday, May 17 @ DO: Special Meeting/Supts. Evaluation; Closed Session 12:30PM; Open Session no later than 2:30PM

Tuesday, May 18 @ DO: Study Session, Ethnic Studies 3:00PM; Closed Session 4:00PM; Open Session 5:15PM

Fremont Union High School District School District

Three Year Expulsion Plan

Between the

Fremont Union High School District

and

The Santa Clara County Office of Education

for the implementation of Education Code 48916.1

1. FUHSD Plan- Educational Alternatives for Expelled Students

a. ***Current program offerings, interventions, and administrative referrals or placements:***

The Fremont Union High School District is committed to providing a wide range of academic and behavioral interventions to support students who are not succeeding. In addition to a large number of interventions at individual school sites including tutorials, therapists and counselors, support groups and other support programs, the following options are available to all students at the District level:

- i. **FUHSD Saturday School:** A counseling-based Saturday School. A limited number of students (15) are assigned to a Saturday School classroom. At every Saturday School are: an administrator, a paraeducator, a teacher and a counselor. Students are required to complete a 'Student Success Plan' that addresses why they were assigned to Saturday School and plans how they will avoid it in the future. These plans are then shared with school site support staff for follow-up. If there are more than 15 students enrolled, an additional classroom is opened up and another teacher and counselor brought in to support the additional students.
- ii. **FUHSD 90-Minute Drug Intervention:** A one-time, 90-minute psycho-educational class on drug use. Students are assigned as an alternative to suspension for drug use, possession or paraphernalia.
- iii. **Perspectives:** A one-time, 60 minute class designed to help students learn positive decision making and anger management skills. Students are assigned as an alternative to suspension for other school offenses.
- iv. **Project Insight:** A counseling-based, 12-week program that helps students develop a better understanding of their anger. Students are assigned as an alternative to suspension or expulsion or as part of the rehabilitation plan.
- v. **Botvin Life Skills:** A 10-week course that is focused on teaching the 'protective factors' that children who choose not to use drugs/alcohol are more likely to be receiving within the home/school/community setting. Students are assigned as an alternative to suspension or expulsion or as part of the rehabilitation plan.
- vi. **Advent 'Step Up' Program:** An ongoing, outpatient program for teens struggling with substance abuse and addiction. The student is provided with up to 10 hours/week of group therapy, recovery education, individual crisis counseling and family therapy. Students can be assigned as an alternative to suspension or expulsion or as part of the rehabilitation plan.
- vii. **Ongoing parent presentations in a variety of subjects**

- viii. **County Mobile Medical Van:** With a focus on supporting the whole child, the County Mobile Medical Van is available to FUHSD students 1-2 times a month.
 - ix. A District-wide focus on Equity, supported by district-wide synchronous and asynchronous lessons and trainings.
 - x. A District-wide commitment to Trauma Informed Care as evidenced by district-wide training and support.
- b. Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
 - c. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
 - d. Expulsion with referral to a district community day program, Education Code 48660: The FUHSD Community School
 - e. Expulsion with subsequent transfer to another district: FUHSD works with Santa Clara Unified School District on a case by case basis.
 - f. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.

2. *Identify gaps in educational services to expelled youth.*

- a. What gaps in your previous plan did you identify?
 - i. A gap previously identified was the challenge of accessing SCCOE Programs when an expelled student was not able to find success in the FUHSD Community School.
 - 1. We continued to build relationships with other school districts to find alternate placements for FUHSD students.
- b. What gaps are present in your current plan and discuss the implementation of the strategies outlined for filling those service gaps.
 - i. The SCCOE continues to work to develop a high quality school that is able to be accessed by students throughout the county.
 - ii. FUHSD continues to build partnerships with other school districts so that we can have school placements for students who have been unsuccessful in their community school placement.
- c. Specifically, identify alternative placements for pupils who are expelled and placed in district (if your district has)community day school programs but who

fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

- i. SCCOE Alternative School
 - ii. Santa Clara Unified School District Community School
- d. Plan for Expelled Students who commit subsequent violations
- i. SCCOE Alternative School
 - ii. Santa Clara Unified School District Community School

Santa Clara County Office of Education

The Santa Clara County Office of Education offers educational alternatives to expelled students through court and community schools. Court schools require the formal placement of students into the program by the juvenile court or its probation/parole department representatives. These programs can be either residential or non-residential and expulsion status of a student has no negative impact on eligibility or placement. Community school enrollment may require referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c).

School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program, blended learning, and or Independent Study through an intervention process to include but not limited to: Student Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Court Schools* (*Placement by non-education agency may be required*)

Osborne

Blue Ridge

Community Schools

Sunol (one location) grades 7-12

Independent Study 7-12

** Placement by non-education agency may be required*

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the

change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

GAPS IN EDUCATIONAL SERVICES TO EXPELLED STUDENTS AND STRATEGIES FOR FILLING THOSE GAPS

The gaps identified in 2018 in educational services to expelled students remain a focus for Santa Clara County. We continue to work with staff, districts, students and families to mitigate their impact.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings

In an effort to ease the enrollment process and to decrease the time it takes to enroll into the community school district patterns will provide a SCCOE enrollment form to referred students at the time of referral. Thereafter, the student and family will either contact the community school and or the community school transition office will make contact to set up an enrollment meeting. At the enrollment meeting the student will be enrolled into the community school and be provided their first level of academic support that may include but not limited to: academic assessments, welcome instructional assignments, meet with the principal and support staff, and receive their class schedule.

2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses and to ensure that disproportionate representation doesn't occur when students exhaust resources.

One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

3. Students in grades K-6 who are expelled do not have the same educational options available as do their counterparts in grades 7-12. Students in grades K-6 are expelled

at a much lower rate than students in grades 7-12. These two factors, together with the requirement that educational services for students in grades K-6 cannot be merged or combined with services to students in grades 7-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-6 services in county community schools is a barrier. It is important to work with the California Department of Education to increase funding to establish and maintain an educational alternative for expelled students in grades K-6.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires that Santa Clara County Office of Education to operate on a chargeback system to our participating districts. To ensure that a community school program is being provided the allotments have increased significantly to allow proper staffing at the community school to serves expelled youth. It is difficult to anticipate the need countywide and therefore, the allotments allows the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

The community school is being consolidated to one school site to ease the financial cost of the program and to ensure that there is a community school for the foreseeable future. Since the geographical area of the county is very large, traffic patterns are some of the most congested within the state, and the length of public transportation to the school site from our two largest feeder districts can vary from a couple minutes to well over an hour, the County Office of Education is exploring an early start and a late start to the school day to ease the transportation issues for students and offer more flexibility for school attendance. In addition, the referring school district will provide bus tokens to students for the first two weeks of school. Thereafter, COE and support providers will provide bus tokens to ensure that students have access to stable transportation.

5. Best practices identified by Santa Clara districts include the following practices:
 - Positive Behavior Interventions Support (PBIS)
 - Multi-tiered System of Support (MTSS)
 - Response to Intervention (RTI)
 - BEST Behavior Program
 - Opportunity Program

- Coordination and implementation of multiple community resources, such as California Youth Outreach (CYO), Parents Helping Parents Project, drug and alcohol counseling, and job development
 - Community liaisons
 - Counselors, psychologist support
 - Character building programs
6. Districts continue to focus on disproportionate representation of minority students in interventions. Based on 2016-17 data, Latino male students represent 74% of our community schools population. In Santa Clara County, Latino males represent approximately 38% of the student population. Strategies to address this concern include differentiation, individualization, use of an equity lens in the planning and development of culturally relevant activities and ongoing professional development for staff to ensure employees are culturally sensitive and linguistically proficient.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO FAIL COMMUNITY DAY SCHOOL PLACEMENTS

The court and community school programs operated by the Santa Clara County Office of Education maintains commitment of accepting most students who have been expelled from their district of residence and who have exhausted all of the alternatives offered by the district. If an initial placement is made to a district operated community day school and the student commits and expellable offense or fails the program, the “District Name” School District Board of Education shall review the plan of rehabilitation that was established at the time of expulsion and make the adjustments necessary. If there is no educational alternative in the “District Name” School District, the student may be referred to the county community school program.

For students in the Santa Clara County community schools who have recommitted an expellable offense, the Santa Clara County Office of Education works closely with the district, probation, families and school officials to determine the next phase of support. Options are limited to Independent Study, modified curriculum and school day, and/or incarceration. If all of these options are exhausted an expelled student may be referred back to their home district to explore additional options. Additionally, the Santa Clara County Office of Education is developing a hybrid alternative blended learning/ independent study program for 2018-19 school year, which will combine multiple resources and options for students, based on their individual learning plan.

FUHSD Board Policies that are specific to expelled youth.

BP 5144.1: Suspension And Expulsion/Due Process

The Board of Trustees desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following:
(Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee may establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286,

288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4

6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined
241.2 Assault fines
242 Battery defined
243.2 Battery on school property
243.4 Sexual battery
245 Assault with deadly weapon
245.6 Hazing
261 Rape defined
266c Unlawful sexual intercourse
286 Sodomy defined
288 Lewd or lascivious acts with child under age 14
288a Oral copulation
289 Penetration of genital or anal openings
417.27 Laser pointers
422.55 Hate crime defined
422.6 Interference with exercise of civil rights
422.7 Aggravating factors for punishment
422.75 Enhanced penalties for hate crimes
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act of 1995
626.10 Dirks, daggers, knives, razors, or stun guns
868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<http://www2.ed.gov/about/offices/list/oese/oshs>

Policy FREMONT UNION HIGH SCHOOL DISTRICT

adopted: January 20, 2004 Sunnyvale, California

revised: February 26, 2019

AR 5144.1: Suspension And Expulsion/Due Process

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Board of Trustees for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))

11. Knowingly received stolen school property or private property (Education Code 48900(l))

12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))

14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))

15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))

16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

a. A message, text, sound, video, or image

b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a

person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))

19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that he/she:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code 48915(c))

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against him/her, and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is

physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the

suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as

defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a non-attorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Non-attorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by

email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be

supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

a. Any complaining witness shall be given five days' notice before being called to testify.

b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave

the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the

Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code 48900.8)

2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)

6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary

school, unless the program is offered at a community day school established at any of these

3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying re-admittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

Outcome Data

The Superintendent or designee shall maintain the following data and report such data annually to the California Department of Education, using forms supplied by the California Department of Education: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

Regulation FREMONT UNION HIGH SCHOOL DISTRICT
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revised: February 26, 2019

AR 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has violated the district's code of student conduct may assert the procedural safeguards granted under this administrative regulation only if the district had knowledge that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5))

The district shall be deemed to have knowledge that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.527)

1. The parent/guardian has expressed concern to supervisory or administrative district personnel in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.530-300.536.

(cf. 6164.4 - Identification of Individuals for Special Education)

3. The teacher of the student, or other district personnel, has expressed specific concerns directly to the district's director of special education or to other supervisory district personnel about a pattern of behavior demonstrated by the student.

The district would be deemed to not have knowledge that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to not have knowledge if the district conducted an evaluation and determined that the student was not an individual with a disability. When the district is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities. (20 USC 1415(k)(5))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.527)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.519. (Education Code

48903; 34 CFR 300.520)

The principal or designee shall monitor the number of days, including portions of days, that students with valid individualized education programs (IEP) have been suspended during the school year.

(cf. 6159 - Individualized Education Program)

Services During Suspension

Any student suspended for more than 10 school days in a school year shall continue to receive services during the term of the suspension, to the extent necessary to provide the student a free and appropriate public education. (20 USC 1412(a)(1)(A); 34 CFR 300.520)

If a student with disabilities is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided that transportation is specified in the student's IEP. (Education Code 48915.5)

(cf. 3541.2 - Transportation for Students with Disabilities)

Interim Educational Placement Due to Dangerous Behavior

A student with a disability may be placed in an appropriate interim alternative educational setting for up to 45 school days, without regard as to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.520)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G))

Procedural Safeguards/Manifestation Determination

The following procedural safeguards shall apply when a student is suspended for more than 10 consecutive school days, when disciplinary action is contemplated for a dangerous behavior as described above, or when a change of placement is contemplated due to a violation of the district's code of conduct:

1. The parents/guardians of the student shall be immediately notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504 on the day the decision to take action is made. (20 USC 1415(k)(1)(H))

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Immediately if possible, but in no case later than 10 school days after the date of the decision, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E))

At the manifestation determination review, the relevant members of the IEP team, the district and parent/guardian shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E))

- a. Caused by, or had a direct and substantial relationship to, the student's disability
- b. A direct result of the district's failure to implement the student's IEP

If the manifestation review team determines that the conduct was caused by either #a or #b above, the conduct shall be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(F))

3. If the manifestation determination review team has determined that the conduct was a result of the student's disability, the IEP team shall conduct a functional behavioral assessment as specified below. The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and district agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F))

4. If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. The student shall continue to receive services to the extent necessary to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. (20 USC 1415(k)(1)(D))

Behavioral Assessment and Intervention Plan

The IEP team shall conduct a functional behavioral assessment and implementation plan for a student who has been removed because of dangerous behavior, or whose behavior was determined to be a manifestation of his/her disability, or whose behavior was determined not to be a manifestation of his/her disability. If the student already has an existing functional behavioral assessment, the team shall modify the assessment, as appropriate, to address the behavioral violation so that it does not recur. (20 USC 1415(k)(1)(C),(D), (F))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Due Process Appeals

If the parent/guardian disagrees with the determination that the student's behavior was not a manifestation of his/her disability or with any decision regarding placement, the parent/guardian has a right to appeal the decision to a hearing officer. (20 USC 1415(k)(3); 34 CFR 300.525)

If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational placement or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.526)

If school personnel maintain that it is dangerous for the student to be placed in the current placement (placement prior to removal to the interim alternative education setting) while the due process proceedings are pending, the Superintendent or designee may request an expedited due process hearing. (20 USC 1415(k)(4); 34 CFR 300.526)

Services During Expulsion

Any student with a disability who is expelled shall continue to receive services during the term of the expulsion to the extent necessary to provide the student a free and appropriate public education. Any alternative program must provide services to the extent necessary to enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.121, 300.520)

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

Suspension of Expulsion

The Board of Trustees's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of acts by any student with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a suspension or expulsion of a student with disabilities, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other

appropriate means, of any act by the student which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind. (Education Code 48902)

(cf. 5131.7 - Weapons and Dangerous Instruments)

Legal Reference:

EDUCATION CODE

35146 Closed sessions (re suspensions)
35291 Rules (of governing board)
48900-48925 Suspension and expulsion
56000 Special education; legislative findings and declarations
56320 Educational needs; requirements
56321 Development or revision of individualized education program
56329 Independent educational assessment
56340-56347 Individual education program teams
56505 State hearing

PENAL CODE

245 Assault with deadly weapon
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act
626.10 Dirks, daggers, knives, razors or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

UNITED STATES CODE, TITLE 21

812(c) Controlled substances

UNITED STATES CODE, TITLE 29

706 Definitions

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.756 Assistance to states for the education of students with disabilities

COURT DECISIONS

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Doe v. Maher, (1986) 793 F.2d 1470

Management Resources:

FEDERAL REGISTER

34 CFR 300.a Appendix A to Part 300 - Questions and Answers

34 CFR 300a1 Attachment 1: Analysis of Comments and Changes

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/about/offices/list/osers/index.html>

Regulation FREMONT UNION HIGH SCHOOL DISTRICT

Approved: June 7, 2005 Sunnyvale, California

BP 5119: Students Expelled From Other Districts

The Board of Trustees may admit students expelled from other districts upon request as long as their admission is consistent with providing a safe, secure and positive school environment for all district students and staff.

In order to prohibit the enrollment of a potentially dangerous student, the Board shall hold a hearing before admitting any student who has been expelled from another district. If the student has been expelled for certain serious reasons specified in Education Code 48915(a) or (c), his/her enrollment may occur only after the term of expulsion, and only if he/she has established legal residence in the district or is enrolled pursuant to an interdistrict attendance agreement.

(cf. 5111 - Admission)

(cf. 5111.1 - District Residency)

(cf. 5117 - Interdistrict Attendance Agreements)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Legal Reference:

EDUCATION CODE

46600 Agreements for interdistrict attendance

46601 Failure to approve interdistrict attendance; expulsion prohibiting appeal

48660-48666 Community day schools

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48915.2 Expelled student; enrollment during and after period of expulsion

48918 Rules governing expulsion procedures

Policy FREMONT UNION HIGH SCHOOL DISTRICT

adopted: December 4, 2003 Sunnyvale, California

AR 5119: Students Expelled From Other Districts

Hearings and notices related to the enrollment of students expelled from other districts shall be conducted in accordance with expulsion procedures consistent with Education Code 48918. (Education Code 48915.1, 48915.2)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

No student shall be enrolled until after the term of his/her expulsion if he/she was expelled for any of the following acts: (Education Code 48915, 48915.2)

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in Education Code 48900(n)
5. Causing serious physical injury to another person, except in self-defense
6. Possessing any knife, explosive or other dangerous object of no reasonable use to the student
7. Unlawfully possessing any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for possessing not more than one ounce of marijuana, other than concentrated cannabis
8. Robbery or extortion
9. Assault or battery upon a school employee as defined in Penal Code 240 and 242.

Enrollment During the Term of Expulsion

If a student has been expelled for an act other than those specified in Education Code 48915(a) or (c), the parent/guardian shall, upon enrollment, inform the receiving district of the student's status with the previous district. (Education Code 48915.1)

A student expelled for acts other than those specified in Education Code 48915 (a) or (c) may be admitted or conditionally admitted during the term of expulsion when the Board of Trustees determines at a hearing that the student does not pose a potential danger to district students or employees. The student shall be admitted provided that, subsequent to the expulsion, he/she either has established legal residence in the district or has enrolled as part of an interdistrict agreement. However, if such a student is found to pose a potential danger, the Board may deny enrollment for the remainder of the expulsion period. (Education Code 48915.1)

If the student or parent/guardian neglects to inform the district that the student was expelled from his/her previous district for an act other than those listed in Education Code 48915(a) or (c), the Board shall record and discuss this lack of compliance during the hearing. (Education Code 48915.1)

Regulation FREMONT UNION HIGH SCHOOL DISTRICT
approved: December 4, 2003 Sunnyvale, California

BP 6185: Community Day School

The Board of Trustees recognizes the need to provide an appropriate alternative educational program for expelled students who are prohibited from attending regular schools in the district and for certain students referred by probation or district processes. The district shall operate a community day school designed to meet the needs of these students. The Superintendent or designee shall ensure that any such school is operated in accordance with legal requirements related to enrollment, instructional time and facilities.

In order to foster positive attitudes and academic progress, the Board recognizes that community day schools must give students substantial individual help with their problems. Community day school staff shall collaborate with district counselors, psychologists, and other support staff and with the county office of education, law enforcement, probation, and human services agency staff who work with at-risk youth. To the extent possible, community day school programs shall provide a low student-teacher ratio as well as individualized instruction and assessment.

(cf. 1020 - Youth Services)

(cf. 5149 - At-Risk Students)

(cf. 6164.2 - Guidance/Counseling Services)

The Superintendent or designee shall establish procedures for the involuntary transfer of students to a community day school in accordance with law and administrative regulation.

(cf. 5113 - Absences and Excuses)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Legal Reference:

EDUCATION CODE

1980-1986 County community schools

17085-17096 Emergency portable facilities

17280-17316 Field Act, approvals

17365-17374 Field Act, fitness of occupancy

48660-48666 Community day schools

48900-48926 Suspension or expulsion

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction

602 Minors violating laws defining crime; ward of court

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

Management Resources:

CDE PROGRAM ADVISORIES

0306.96 Expulsion Policies and Expulsion Placements, SPB: 95/96-04

WEB SITES

CDE, Educational Options Office: <http://www.cde.ca.gov/spbranch/essdiv/edoptshome.html>

Policy FREMONT UNION HIGH SCHOOL DISTRICT
adopted: January 20, 2004 Sunnyvale, California

AR 6185: Community Day School

Involuntary Transfer

A student may be assigned to a community day school only upon meeting one or more of the following conditions: (Education Code 48662)

1. The student is expelled for any reason.

(cf. 5144.1 - Suspension and Expulsion/Due Process)

2. The student is probation-referred pursuant to Welfare and Institutions Code 300 and/or 602.

3. The student is referred by a school attendance review board (SARB) or other district-level referral process.

The first priority for assignment to a community day school shall be given to students expelled pursuant to Education Code 48915(d). Second priority shall be given to students expelled for other reasons, and third priority shall be given to students referred according to item #2 or #3 above. These priorities are applicable unless the district has an agreement that the County Superintendent of Schools shall serve any of the above students. (Education Code 48662)

In the case of any student who has been identified as eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, assignment to a community day school shall be first approved by the student's Individualized Education Program (IEP) team or school site committee (e.g., student study team) as required by law.

(cf. 5144.2 - Suspension and Expulsion (Students with Disabilities))

(cf. 6159 - Individualized Education Program)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

(cf. 6164.6 - Identification and Education under Section 504)

At least 10 calendar days prior to the involuntary transfer of a student as a result of a district-level referral process, the Superintendent or designee shall provide written notice of the transfer to the student's parent/guardian or to the adult student age 18 or older. The notice shall contain a statement of the facts and circumstances upon which the transfer is based, its duration, and the conditions for readmission. The notice shall advise the student's parent/guardian or adult student of the opportunity to inspect and obtain copies of all documents supporting the transfer. In addition, the notice shall also state that the parent/guardian or adult student has five school days to request a meeting with the Superintendent or designee to discuss the transfer.

If the Superintendent designates an individual to represent the district at the meeting, the individual so designated shall not be a member of the staff of the school at which the student is currently enrolled.

At the meeting, the reason for the transfer shall be reviewed with the parent/guardian or adult student and the parent/guardian or adult student may present evidence on the student's behalf.

The Superintendent or designee shall send the parent/guardian or adult student written notice of the

decision to transfer or not transfer within three school days of the meeting.

If the parent/guardian or adult student desires to appeal the Superintendent's decision to the Board, he/she shall file written notice of the intent to appeal within five school days of receiving the decision. The Board shall determine whether or not to hear the appeal within 15 calendar days. If the Board desires to hear the appeal, the Board shall decide the appeal within 30 calendar days of receipt of the notice of the appeal. The Board's decision shall be final.

Instruction

Academic programs offered in the community day school shall be comparable to those available to students of a similar age in the school district. (Education Code 48663)

The minimum school day for community day school students shall be 360 minutes of classroom instruction provided by a certificated employee of the district reporting attendance for apportionment purposes. Independent study shall not be used as a means of providing any part of this minimum day. (Education Code 48663)

(cf. 6158 - Independent Study)

Facilities

To house community day school operations, the district shall do one or more of the following: (Education Code 17292.5)

1. Use available school facilities conforming with Field Act requirements
2. Apply for emergency portable classrooms pursuant to Education Code 17085-17096.
3. Upon certifying to the State Allocation Board that all reasonable efforts have been made to use facilities that conform with the Field Act requirements of item #1 above, enter into lease agreements for facilities for which a structural engineer has submitted a report stating that substantial structural hazards do not exist.

Every three years, the Superintendent or designee shall report to the State Allocation Board on the facilities used for the district's community day programs and efforts to place these programs in facilities that conform with the requirements of item #1 above. (Education Code 17292.5)

Regulation FREMONT UNION HIGH SCHOOL DISTRICT
approved: January 20, 2004 Sunnyvale, California
revised: July 21, 2009



Printed : 5/26/2021 3:09 PM PT

Regular Meeting LGSUHSD

05/25/2021 04:30 PM

Library - Los Gatos High (Limited capacity due to COVID)

20 High School Court, Los Gatos, CA 95030

Zoom link:[https://lgsuhd.zoom.us/j/96066329307?](https://lgsuhd.zoom.us/j/96066329307?pwd=RERDZ2JXSmh4anJLZFZLQkxSR1hKZz09)

pwd=RERDZ2JXSmh4anJLZFZLQkxSR1hKZz09

Passcode: Board0525 Or One tap mobile : US:

+16699006833,,96066329307#,,,,*944962115# or

+13462487799,,96066329307#,,,,*944962115# Or

Telephone: Dial(for higher quality, dial a number

based on your current location): US: +1 669 900

6833 or +1 346 248 7799 or +1 253 215 8782 or +1

301 715 8592 or +1 312 626 6799 or +1 929 436

2866 Webinar ID: 960 6632 9307 Passcode:

944962115 International numbers available:

[https://lgsuhd.zoom.us/j/96066329307?](https://lgsuhd.zoom.us/j/96066329307?pwd=RERDZ2JXSmh4anJLZFZLQkxSR1hKZz09)



Scan the above QR code with your phone to view this meeting agenda on your phone.

We welcome you to this meeting. Consistent with State of California Executive Order N-29-20 (dated March 17, 2020) regarding the COVID-19 pandemic, LGSUHSD Board of Trustee meetings have been conducted virtually. We are now offering the option of attending in person at the Los Gatos High Library OR via the posted Zoom link. PLEASE NOTE: In person capacity is still limited based on space availability as determined by COVID-19 safety guidelines. Public comment may be submitted in person, virtually or in writing. All guidelines regarding public comment apply regardless of format and virtual and in person comment time limits will be aggregate.

The public may make comments relevant to agenda items at the time so designated on the agenda. Public comment will not be heard outside of the designated time. While not required, we would appreciate it if you would identify yourself with your name and address when addressing the Board. Time is allowed at designated times on the Agenda for the Public to address the Board on an item which is not on the agenda during the opportunity for Public Concerns. Speakers are asked to limit remarks to three minutes (with a maximum of twenty minutes for one topic). No action will be taken by the Board at this time. The Board may put the issue on a future agenda for more discussion and/or action, or may refer the issue to the administration for follow-up. Any individual requiring disability-related accommodations or modifications including auxiliary aids and services in order to participate in the Board meeting should contact the Superintendent in writing.

- For virtual public comment: **You may provide public comment by using the Raise your Hand** feature, once you have logged in and registered using the posted Zoom link. The host will be notified that you have done so. Once you are recognized by the host, you may be asked to unmute your speaker. You will have a maximum of three minutes to speak.
- For in person public comment: Please use the Blue Cards provided and submit to the district meeting coordinator. You will be called to comment at the appropriate time.

- For written public comment: Please submit your comments via email to jmarashian@lgsuhdsd.org

Public comment will not be heard outside of the designated time. While not required, we would appreciate it if you would identify yourself with your name and address when addressing the Board. Time is allowed at designated times on the Agenda for the Public to address the Board on an item which is not on the agenda during the opportunity for Public Concerns. Speakers are asked to limit remarks to three minutes (with a maximum of twenty minutes for one topic). No action will be taken by the Board at this time. The Board may put the issue on a future agenda for more discussion and/or action, or may refer the issue to the administration for follow-up. Any individual requiring disability-related accommodations or modifications including auxiliary aids and services in order to participate in the Board meeting should contact the Superintendent in writing.

Pursuant to State law (Education Code 54954.2), closed sessions are not open to the public and may only be held for collective bargaining discussion, employment or dismissal of an employee, disciplinary matters relative to student(s) or employee(s), meeting with legal counsel on pending or anticipated litigation, emergency situations, and other exceptions as provided by law, including Government Code 54957 and 54957.6.

Action on all Consent Calendar items will be acted upon in one motion unless a Trustee, the Superintendent or member of the public requests that any such item be removed from the Consent Calendar for discussion by trustees or any interested party.

Upon request by a student's parent/guardian, or by the student if age 18 or older, the minutes shall not include the student's or parent/guardian's address, telephone number, date of birth, or email address, or the student's name or other directory information as defined in Education Code 49061. The request to exclude such information shall be made in writing to the Secretary or Clerk of the Board. (Education Code 49073.2).

Zoom Link:

<https://lgsuhdsd.zoom.us/j/96066329307?pwd=RERDZ2JXSmh4anJLZFZLQkxSR1hKZz09>

Passcode: Board0525

Or One tap mobile :

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+13462487799,,96066329307#,,,,*944962115#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

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312 626 6799 or +1 929 436 2866

Webinar ID: 960 6632 9307

Passcode: 944962115

International numbers available: <https://lgsuhdsd.zoom.us/j/96066329307?pwd=RERDZ2JXSmh4anJLZFZLQkxSR1hKZz09>

I. Call to Order

- Approval of the Agenda

II. Public Comment

- An Opportunity for the Public to Comment on Items on the Closed Session Agenda

III. Closed Session

- A. Employee Discipline/Dismissal/Release (Government Code 54957)
- B. Provide Direction Regarding CSEA / DTA Negotiations (Government Code 54957.6)
- C. Public Employee Evaluation - District Superintendent (Government Code 54957)

IV. Reconvene Regular Session

V. President's Report Out of Closed Session

VI. Flag Salute

VII. District Recognitions

VIII. Student Board Representative Comments

IX. Student Recognitions

X. Staff Spotlight

XI. Staff Reports/Comments

XII. Public Comment - Items Not on the Agenda

XIII. Report/Discussion

- A. School Reopening Update
- B. Public Comment - School Reopening Update
- C. LCAP (Local Control Accountability Plan), 2021-2022
- D. School Plan for Student Achievement (LGHS & SHS) - First Reading
- E. Public Comment - LCAP/SPSA
- F. Board Policy 3100 - District Reserve Update
- G. BAC Goals - 2021-2022
- H. Public Comment- Reserve Policy/BAC Goals

XIV. Public Comment-Action Items

XV. Action/Voting Items

- A. Job Descriptions
- B. Measure E: Change Order #02, CRW Industries, SHS 900 Wing Modernization Project (\$20,722.58)
- C. Measure E: Anderson Brule Architects, Inc. ("ABA") Additional Services Contract, Saratoga High School Engineering/Shop Classroom Project, \$33,500

XVI. Board Reports and Communications

- A. Board Correspondence
- B. Board Communications

XVII. Public Comment- Consent Calendar

XVIII. Consent Calendar

- A. Minutes, Regular Meeting - May 11, 2021
- B. Minutes, Special Meeting - May 7, 2021
- C. Student Travel - SHS Robotics Students (summer 2021)
- D. LGSUHSD 3-Year Expulsion Plan 2021**
- E. Contracts for Less Than \$50,000 in Value
- F. Certificated Administrative and Classified Management Salary Schedule 2021-2022
- G. Service Learning Agreements, 2021-22
- H. Salary Schedule Non-Bargaining Unit Certificated Positions
- I. Certificated Personnel Report
- J. Classified Personnel Report

XIX. Future Board Agenda Items

XX. Adjournment

Agenda attachments and any distributed public records relating to an agenda item are available for review online at <https://losgatossaratoga.agendaonline.net/public/> and at the District Office:
17421 Farley Road West, Los Gatos, CA.



A PLAN BETWEEN THE
LOS GATOS -SARATOGA UNION HIGH SCHOOL DISTRICT
AND
THE SANTA CLARA COUNTY OFFICE OF EDUCATION
FOR THE IMPLEMENTATION OF EDUCATION CODES 48916.1 AND 48926
2021-2024
JUNE 2021

INTRODUCTION

THE LOS GATOS -SARATOGA UNION HIGH SCHOOL DISTRICT

ALTERNATIVE EDUCATIONAL SETTING

PLAN FOR EXPELLED YOUTH

Educational programs within Santa Gara County provide opportunities for students who are in need of traditional and/or alternative educational programs. Individual school districts offer a broad spectrum of service and the County Office of Education offers additional options. This combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

COUNTY OFFICE OF EDUCATION OVERVIEW

The Expulsion Plan has been developed to ensure that appropriate educational placement options are available for students who have been expelled or are otherwise at-risk/at-promise students. This will also result in:

- Closing the achievement gap
- Decreasing the dropout rate
- Increasing the graduation rate

EC Section 48926 provides specifically that:

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

The State School Attendance Review Board (Board) provides statewide policy coordination to divert students with serious attendance and behavior problems from the juvenile justice system and to reduce the number of dropouts in the state public education system. The Board strongly recommends that the plans address progress being made in providing educational placement options and services to high-risk youth since the last plans were submitted, as well as looking forward.

Since expelled students still need to be enrolled in and served through schools, the operations of their educational placements during Coronavirus (COVID-19) conditions can be discussed in your District Plans. Additionally, you should address service delivery for post-COVID-19 conditions.

COUNTY EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED YOUTH

The Santa Clara County Office of Education offers education alternatives to expelled students through community schools

Community school enrollments require referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c). School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program or blended learning through an intervention process to include but not limited to:
Student

Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education are as follows:

Community Schools

Sunol 6-12

South County grades 6-12

DISTRICT EXISTING EDUCATION ALTERNATIVES FOR
EXPELLED YOUTH

Los Gatos-Saratoga Union High School District offers the following options for expelled youth, depending on the specific offense and Education code violation:

- 1) suspended expulsion with placement on the same school campus;
- 2) suspended expulsion with placement on a different school campus within the District;
- 3) suspended expulsion with placement on a neighboring school District campus;
- 4) suspended expulsion with placement on District Contracted Study (Independent Studies), if the parent agrees;
- 5) expulsion with referral to a District Community Day School program; or
- 6) expulsion with referral to the Santa Clara County Office of Education Court and Community School/Day Center Program.

Actual referral to any placement is made by the Los Gatos-Saratoga Union High School District Governing Board.

LOS GATOS-SARATOGA UNION HIGH SCHOOL DISTRICT OVERVIEW

COUNTY AND DISTRICT GAPS AND STRATEGIES IN EDUCATIONAL SERVICES

There are major gaps that exist in respect to providing educational services to expelled pupils. Following each gap is the County/District strategy for addressing these gaps.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are in rural areas and others are in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings

District strategy for addressing this gap:

- Alternative or continuation options will be made available.
2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

County/District strategy for addressing this gap:

- The Santa Clara County Office of Education will continue to provide educational services to those eligible students placed or referred to the Court and Community School/Day Center program.
- Districts will continue to use existing educational strategies and programs to meet the needs of expelled students.

3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

County/District strategy for addressing this gap:

- A regional program may be developed to reflect geographical or limited numbers.
4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools requires that Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program.

County/District strategy for addressing this gap:

- A regional program may be developed to reflect geographical or limited numbers.

COUNTY AND DISTRICT ALTERNATIVE PLACEMENTS

(For those expelled students who have been placed in a district community day school but who fail to meet the terms or conditions of their rehabilitation plan or who pose a danger to other district pupils)

STEP I

The School district of residence continues to maintain responsibility for developing a rehabilitation plan for the student, referring the student to an appropriate educational setting, and ensuring that an educational program is provided either within or outside the school district.

STEP II

Expelled students who fail to meet the terms and conditions of the district rehabilitation plan may be referred to a different district school, another district program, a district Community Day School Program (if funded), or the Santa Clara County Office of Education Community School.

Expelled students who are referred to Santa Clara County Office of Education Community School will have an Individual Learning Plan, which will be developed, with the students' parents and COE staff. Part of this plan may include a goal of returning to the school district or residence after the district expulsion term. If students fail in the County-operated program, they are referred back to the district for re-admission consideration and placement.

Meeting Date: 5/10/2021 - 5:30 PM
Category: Consolidated Motion
Type: Action
Subject: 16.3 Expulsion Plan 2021-2024

**LCAP (Local Control
Accountability Plan)
Goal:**

Enclosure:

File Attachment:
 Expulsion Plan_MVLA 2021-2024.pdf

Summary: California Education Code 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps. The Santa Clara County Office of Education requires each district to update their Expulsion Plan every three years and submits a compiled county plan to the California Department of Education.

Educational programs within Santa Clara County provide numerous opportunities for students who are in need of traditional and/or alternative education programs. While individual school districts offer a broad spectrum of service and the County Office of Education offers additional options, this combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined in the Expulsion Plan and Board Policy 5144.1. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

Funding: There is no fiscal impact.

Recommendation Approve the Expulsion Plan 2021-2024.

Approvals:
Recommended By:
Signed By:  Grace Icasiano - Administrative Assistant
Signed By:  Teri Faught - Associate Superintendent of Educational Services
Signed By:  Nellie Meyer - Superintendent

Vote Results: Member Sanjay Dave Moved, Member Catherine Vonnegut seconded to approve the New motion 'Approve Consolidated Motion items #16.2 through #16.5 and #16.7 through #16. 16. '. Upon a Roll-Call Vote being taken, the vote was:
Aye: 5 Nay: 0.
The motion Carried 5 - 0

Sanjay Dave	Yes
Fiona Walter	Yes
Catherine Vonnegut	Yes
Phil Faillace	Yes
Debbie Torok	Yes



Mountain View Los Altos High School District
2021-2024

Three Year Expulsion Plan
Between the
Mountain View Los Altos High School District
and
The Santa Clara County Office of Education
For the implementation of Education Code 48916.1

Developed by
Mountain View Los Altos High School District Educational Services

Pending BOARD APPROVAL: May 24, 2021



HIGH SCHOOL DISTRICT

Serving the communities of Mountain View,
Los Altos and Los Altos Hills

MOUNTAIN VIEW LOS ALTOS HIGH SCHOOL DISTRICT

BOARD OF TRUSTEES

Sanjay Dave
Phil Faillace, Ph.D.
Debbie Torok
Catherine Vonnegut
Fiona Walter

SUPERINTENDENT

Nellie Meyer, Ed.D.

May 10, 2021

To whom it may concern:

At a meeting held on May 10, 2021, the Mountain View Los Altos High School District School Board of Education approved the Three Year Expulsion Plan, which follows the Countywide Expulsion Plan developed by the Santa Clara County for the implementation of Education Code 48916.1.

Sincerely,

Dr. Nellie Meyer

Superintendent

Introduction

California Education Code 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.” The Santa Clara County Office of Education requires each district to update their Expulsion Plan every three years and submits a compiled county plan to the California Department of Education.

Educational programs within Santa Clara County provide numerous opportunities for students who are in need of traditional and/or alternative education programs. While individual school districts offer a broad spectrum of service and the County Office of Education offers additional options, this combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined in the Expulsion Plan and Board Policy 5144.1. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

Mountain View Los Altos High School District Expulsion Plan

The Board recognizes that maintaining an environment which promotes learning and protects the health, safety, and welfare of all students may require the suspension or expulsion of a student from regular classroom instruction. District policies and school site rules shall clearly identify district behavior standards.

Educational Alternatives for Expelled Students

MVLA offers the following programs, interventions, and administrative referrals or placements

1. Intervention Programs

- a. All high school campuses regularly communicate expectations for behavior and conduct to all students. School policies are posted in the school handbook, student planners and the school websites. Families are informed at the beginning of the school year and confirm their understanding of student expectations through the data confirmation process. Students sign a code of conduct contract annually.
- b. The Student Study Team or Student Assistance Team meets regularly to discuss how to best support the struggling student. Recommendations are brought forward by teachers, administrators and counselors.
- c. As a progressive discipline step, the Administration places students on behavior or no-contact contracts to prevent further behavior issues or misconduct.
- d. Students are referred to the Advent Drug Counseling program when faced with a drug or alcohol violation. The program also serves as an alternative to suspension.
- e. Saturday School or lunch detention is assigned to students as part of the progressive discipline steps.
- f. Assistant Principals and Student Services Coordinators work with a caseload of high-need students to offer support and to work with families.
- g. In cases where students need a smaller, self-contained setting, second-semester 9th graders and 10th graders may be recommended to transfer to Alta Vista Opportunity Program for the duration of the school year.
- h. Mental Health Therapists (CHAC/CHC/on-site) are available to meet with students who have been referred by others or self.
- i. School Resource Officers (SRO) are assigned to Mountain View High School and work with administration to support students.
- j. SARB meetings are held to address the attendance truancy needs of students
- k. Students from all grade levels participate in Challenge Day which fosters interconnectedness among various student groups on campus

The MLVA offers the following options for expelled youth, depending on the specific offense and Education Code violation:

1. Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
2. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
3. Expulsion with placement in the District Alta Vista Opportunity Program, Education Code 48660.
4. Expulsion with placement in the Moffet Independent Study Program, Education Code 48660.
5. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.

Districtwide gaps in educational services to expelled youth.

1. MVLA offers Alta Vista High school to serve grades 11 and 12 graders. For grades 9 and 10, Alta Vista Opportunity (AVO) Program which provides a small, self contained setting. The goal of AVO is to provide individualized support so that students may return to the comprehensive sites or transition to Alta Vista High School if recommended, Although the AVO Program serves the needs of younger students, including those with IEPs, we continue to struggle with placing older students that possess an IEP and require specialized instruction in the core areas. Supporting the student who struggles academically, socially and behaviorally, becomes even more challenging when there is an attendance truancy issue. In addition, when multiple students are involved in the same incident, there are not enough alternate locations to distribute students given that we have only three schools in our district. Students with IEPs that are in need of behavioral and therapeutic services are often referred to Non-Public School (NPS) which provides flexibility, however, this approach can deem costly for the district. We will continue working with the County to identify appropriate placements for students, particularly student with IEPs.
2. When students are placed in an alternative setting due to disciplinary reasons, a rehabilitation plan is developed with the student. This plan is shared with the receiving institution, which will require ongoing monitoring on their part. The Director of Alternative Education is responsible for convening with the student and family at the end of the terms of the placement to determine if the student has completed and executed the conditions of the plan. A determination is made based on evidence of meeting the plan. For those students who have not met the conditions of the plan under the prescribed time, their placement is reevaluated.

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.”

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population. The Santa Clara Countywide Plan for Expelled Students will be updated to the 2021 - 2024.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

Santa Clara County Office of Education

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- *Suspended expulsion with placement at a different district campus (within or outside of the district)*
- *Home teaching*
- *Non-public school placement*
- *District Community Day School*
- *Independent Study Program*

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Countywide Identified Gaps

- 1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings*
- 2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at defusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.*
- 3. Students in grades K-6 who are expelled do not have the same educational options available as do their counterparts in grades 7-12. Students in grades K-6 are expelled at a much lower rate than students in grades 7-12. These two factors, together with the requirement that educational services for students in grades K-6 cannot be merged or combined with services to students in grades 7-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-6 services in county community schools is a barrier. It is important to work with the California Department of Education to increase funding to establish and maintain an educational alternative for expelled students in grades K-6.*
- 4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires that Santa Clara County Office of Education to operate on a chargeback system to our participating districts. To ensure that a community school program is being provided the allotments have increased significantly to allow proper staffing at the community*

school to serves expelled youth. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

- 5. Districts continue to focus on disproportionate representation of minority students in interventions. Based on 2016-17 data, Latino male students represent 74% of our community schools population. In Santa Clara County, Latino males represent approximately 38% of the student population. Strategies to address this concern include differentiation, individualization, use of an equity lens in the planning and development of culturally relevant activities and ongoing professional development for staff to ensure employees are culturally sensitive and linguistically proficient.*

Suspension And Expulsion/Due Process

The Board of Trustees desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. [5131](#) - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. [5131.2](#) - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code [48900\(s\)](#))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. [5112.5](#) - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code [48900\(a\)-\(e\)](#), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#), [48900.6](#))

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

(cf. [6142.4](#) - Service Learning/Community Service Classes)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. [6164.5](#) - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. [5113](#) - Absences and Excuses)

(cf. [5113.1](#) - Chronic Absence and Truancy)

Authority to Expel

A student may be expelled only by the Board. (Education Code [48918\(j\)](#))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code [48915](#))

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm

3. Brandishing a knife at another person

4. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)

5. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)

6. Possessing an explosive as defined in 18 USC [921](#)

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code [48915\(b\)](#) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code [48917](#))

No student shall be expelled for disruption or willful defiance. (Education Code [48900](#))

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code [48911](#), [48915](#), [48915.5](#), [48918](#))

(cf. [5119](#) - Students Expelled from Other Districts)

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code [48900.8](#) and [48916.1](#), including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

Maintenance and Monitoring of Outcome Data

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

PENAL CODE (continued)

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

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Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

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<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

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Policy MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

adopted: January 14, 2019 Mountain View, California

Suspension And Expulsion/Due Process

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code [48925](#))

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Board of Trustees for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code [48910](#)

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code [48925](#))

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code [35291](#), [48900.1](#), [48980](#))

(cf. [5144](#) - Discipline)

(cf. [5145.6](#) - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code [48900\(a\)](#) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code [48900\(b\)](#))

(cf. [5131](#) - Conduct)

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind (Education Code [48900\(c\)](#))

(cf. [3513.4](#) - Drug and Alcohol Free Schools)

(cf. [5131.6](#) - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code [48900\(d\)](#))

5. Committed or attempted to commit robbery or extortion (Education Code [48900\(e\)](#))

6. Caused or attempted to cause damage to school property or private property (Education Code [48900\(f\)](#))

7. Stole or attempted to steal school property or private property (Education Code [48900\(g\)](#))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code [48900\(h\)](#))

(cf. [5131.62](#) - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code [48900\(i\)](#))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code [11014.5](#) (Education Code [48900\(j\)](#))

11. Knowingly received stolen school property or private property (Education Code [48900\(l\)](#))

12. Possessed an imitation firearm (Education Code [48900\(m\)](#))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code [48900\(m\)](#))

13. Committed or attempted to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committed a sexual battery as defined in Penal Code [243.4](#) (Education Code [48900\(n\)](#))

14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code [48900\(o\)](#))

15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code [48900\(p\)](#))

16. Engaged in, or attempted to engage in, hazing (Education Code [48900\(q\)](#))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code [48900\(q\)](#))

17. Engaged in an act of bullying (Education Code [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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code [48900\(r\)](#))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code [48900.2](#), [48900.3](#), or [48900.4](#) and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code [48900\(r\)](#))

a. A message, text, sound, video, or image

b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code [48900\(r\)](#))

(cf. [1114](#) - District-Sponsored Social Media)

(cf. [5131.2](#) - Bullying)

(cf. [6163.4](#) - Student Use of Technology)

(cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)

(cf. [6164.6](#) - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code [31](#) (Education Code [48900\(t\)](#))

19. Made terrorist threats against school officials and/or school property (Education Code [48900.7](#))

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code [48900.7](#))

Additional Grounds for Suspension and Expulsion: Grades 4-12

Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code [48900\(k\)](#))

(cf. [5131.4](#) - Student Disturbances)

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that he/she:

1. Committed sexual harassment as defined in Education Code [212.5](#) (Education Code [48900.2](#))

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code [212.5](#), [48900.2](#))

(cf. [5145.7](#) - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code [233](#) (Education Code [48900.3](#))

Hate violence means any act punishable under Penal Code [422.6](#), [422.7](#), or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code [233](#); Penal Code [422.55](#))

(cf. [5145.9](#) - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code [48900.4](#))

(cf. [5145.3](#) - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code [48900](#) and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code [48910](#))

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code [48910](#))

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code [48910](#))

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code [48910](#))

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code [48910](#))

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code [48913](#))

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code [48915\(c\)](#))

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code [48900.5](#))

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code [48900.5](#))

(cf. [5125](#) - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code [48911](#))

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code [48903](#), [48911](#), [48912](#))

(cf. [6184](#) - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code [48911](#))

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code [48900.5](#), and the evidence against him/her, and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code [48911](#))

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code [48911](#))

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code [48911](#))

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code [48911](#))

This notice shall state the specific offense committed by the student. (Education Code [48900.8](#))

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code [48914](#))

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code [48911](#))

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension

until such time as the Board has made a decision, provided the following requirements are followed: (Education Code [48911](#))

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code [48911](#))

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code [48853.5](#), [48911](#), [48918.1](#))

(cf. 6173.1 - Education for Foster Youth)

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code [48918.1](#))

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code [48912](#))

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code [48915](#). (Education Code [48912.5](#))

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code [49073-49079](#). (Education Code [35146](#), [48912](#))

(cf. [9321](#) - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion

that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code [35146](#), [48912](#))

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code [48911.1](#))

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code [48911.1](#))

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code [48915](#))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code [11053-11058](#), except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code [240](#) and [242](#), upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code [48915](#))

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code [48918\(a\)](#))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code [48918\(a\)](#))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code [48918\(a\)](#))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code [48925](#). Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code [48918\(a\)](#))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code [48918\(a\)](#))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code [48918](#).

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code [48918.5](#))

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code [48918.5](#))

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code [48918.5](#))

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code [48900.8](#), [48918\(b\)](#))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code [48915.1](#), to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code [48915\(a\)](#) or (c).

(cf. [5119](#) - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code [48918.1](#))

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code [48918.1](#))

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code [48918.1](#))

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding Education Code [35145](#), the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code [48918](#))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code [48918\(c\)](#))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code [48918\(c\)](#))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code [48918\(g\)](#))

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the

personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure [1985-1985.2](#) and enforced in accordance with Government Code [11455.20](#). (Education Code [48918\(i\)](#))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code [48918\(i\)](#))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code [48918\(i\)](#))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code [48900](#) and listed in "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code [48918\(h\)](#))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code [48918\(f\)](#))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code [48918](#), [48918.5](#))

a. Any complaining witness shall be given five days' notice before being called to testify.

b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code [868.5](#).

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code [48918\(a\)](#))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code [48918](#))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the

student's removal from school, unless the student requests that the decision be postponed. (Education Code [48918](#)(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code [48918](#)(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code [48918](#)(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code [48917](#), [48918](#))

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code [48918](#)(j))

(cf. [9321.1](#) - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the

summer session or intersession period in which the expulsion occurred. (Education Code [48916](#))

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code [48916](#))

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code [48916.5](#))

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code [48900.8](#))
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code [48916](#))
3. Notice of the right to appeal the expulsion to the County Board (Education Code [48918](#))
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code [48918](#))
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code [48915.1](#) (Education Code [48918](#))

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code [48917](#))
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code [48917](#))
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code [48917](#))
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code [48917](#))
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code [48917](#))
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code [48915.1\(b\)](#). (Education Code [48918\(j\)](#))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code [48917](#))

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code [48919](#))

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code [48919](#))

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code [245](#). (Education Code [48902](#))

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code [48915](#)(c)(1) or (5) or Penal Code [626.9](#) and [626.10](#). (Education Code [48902](#))

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code [48900](#)(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code [48902](#))

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code [48915](#), [48915.01](#))

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. [6158](#) - Independent Study)

(cf. [6185](#) - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code [48915](#))

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code [48916.1](#))

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School

regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.

3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.

4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code [48916](#))

5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code [48916](#))

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code [48645.5](#))

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code [48900.8](#))

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code [48918\(k\)](#))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code [48915.1](#))

(cf. [5119](#) - Students Expelled from Other Districts)

Regulation MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

approved: January 14, 2019 Mountain View, California

Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC [1400-1482](#), is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR [300.536](#). (Education Code [48903](#); 34 CFR [300.530](#))

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. [6159](#) - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR [300.536](#))

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.
 - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
 - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC [1412\(a\)\(1\)\(A\)](#); 34 CFR [300.530](#))

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code [48915.5](#))

(cf. [3541.2](#) - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.530](#))

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.531](#))

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP.

As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

(cf. [5145.6](#) - Parental Notifications)

(cf. [6159.1](#) - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

a. Caused by or had a direct and substantial relationship to the student's disability

b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

(cf. [6159.4](#) - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

(cf. [6158](#) - Independent Study)

(cf. [6185](#) - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR [300.530](#) (suspension and removal for dangerous circumstances) or 34 CFR [300.531](#) (interim alternative placement), or the manifestation determination under 34 CFR [300.530\(e\)](#), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR [300.507](#) and [300.508\(a\)](#) and (b). (20 USC [1415\(k\)\(3\)](#); 34 CFR [300.532](#))

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR [300.507](#), [300.508](#) (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR [300.532](#) as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC [1415\(k\)\(4\)](#); 34 CFR [300.533](#))

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Board of Trustees' criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code [48917](#))

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to

certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Education Code [49076](#))

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code [48203](#))

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC [1414\(a\)\(1\)\(B\)](#) or 34 CFR [300.300-300.311](#).

(cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR [300.300-300.311](#), the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR [300.530](#), the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Legal Reference:

EDUCATION CODE

- 35146 Closed sessions re: suspensions
- 35291 Rules of governing board
- 48203 Reports of severance of attendance of disabled students
- 48900-48925 Suspension and expulsion
- 49076 Access to student records
- 56000 Special education; legislative findings and declarations
- 56320 Educational needs; requirements
- 56321 Development or revision of individualized education program
- 56329 Independent educational assessment
- 56340-56347 Individualized education program teams
- 56505 State hearing

PENAL CODE

- 245 Assault with deadly weapon
- 626.2 Entry upon campus after written notice of suspension or dismissal without permission
- 626.9 Gun-Free School Zone Act
- 626.10 Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

AR 5144.2(g)

Suspension And Expulsion/Due Process (Students With Disabilities)

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

706 Definitions

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.530-300.537 Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:
<http://www.ed.gov/about/offices/list/osers/osep>

Regulation MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

approved: January 14, 2019 Mountain View, California

**Gilroy Unified School District
Board of Education Regular Meeting
May 20, 2021**

**Zoom Meeting
Closed Session 5:30 PM | Regular Session 7:00 PM**

Notice of VIDEO/TELEPHONE Governing Board Meeting.

In compliance with the State of California Executive Orders N-29-20 and N-35-20 issued by Governor Newsom, Board Members, interested parties, and members of the public will be able to call or sign into the meeting.

FOR MEETING AUDIO ONLY -

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PUBLIC COMMENTS/TRANSLATION SERVICES

Public Comments – Members of the public may submit comments on specific items on the agenda, and any items within the jurisdiction of the school district in the following manner: [via google forms](#)/ Please submit your comment no later than 6:00 PM on the day of the meeting. In accordance with Board Bylaw 9323, individual remarks will be limited to 3 minutes each, unless otherwise stipulated. The total time designated for public comment on the agenda will be 45 minutes. The time allotted for each speaker will be determined by the number of speakers.

Excellence: It Takes Everyone!

Mission Statement: *Gilroy Unified School District will provide opportunities for all students to reach their highest academic and intellectual competencies and personal attributes to be life-long learners, responsible citizens, and productive members of society. This will be accomplished by having a clear focus on student needs; staff, parents and community members demonstrating high expectations for themselves and for every child served; and by continually improving the quality of teaching and learning.*

AGENDA

1. CALL TO ORDER

PUBLIC COMMENT ON CLOSED SESSION: Notice is hereby given that a closed session of the Board of Education will be held under the general provisions of Govt. Code Section 54957. This opportunity is provided to allow the public to comment prior to the Board's consideration (Govt. Code Section 54954.3).

2. CLOSED SESSION (5:30 PM)

- a. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code Section 54957[b])**
- b. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION (Government Code section § 54956.9(d)(2)):**
- c. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9)**
- d. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957[a])**

Employee Organization(s):
California School Employees Association (CSEA)
Gilroy Federation of Paraeducators (GFP)
Gilroy Teachers Association (GTA)
GUSD Management and Confidential Group
District Negotiator: Deborah Flores, Superintendent

3. REGULAR SESSION (7:00 PM)

This meeting is being recorded or broadcasted; images and sounds may be captured of those attending the meeting.

- a. Pledge of Allegiance**
- b. Approval of Agenda (*action item*)**
- c. Recognition**

- Top Community Service Awardees
- Claire Huang, GECA, National Merit Scholarship Finalist, \$2,500 winner
- Daniel Tran, GECA, National Merit Scholarship Finalist
- Kasandra Maita, GECA, National Merit Scholarship Semi-finalist
- Jasmine "Caspian" Antrim, GECA, National Merit Commended Scholar
- Jack Fan, GECA, National Merit Commended Scholar
- Ryan Cottone, Christopher High School, National Merit Commended Scholar

- d. General Public Comment**

At this time, members of the public may address the board on any items or any issues within the subject matter jurisdiction of the Board that are not listed on this agenda. No action can be taken on an item not on the agenda at this time, but may be referred to the administration or put on a future agenda. Members of the public may also address the Board on an agenda item before or during the Board's consideration of the item. In accordance with Board Bylaw 9323, individual remarks will be limited to 3 minutes each, unless otherwise stipulated.

- e. Report of Action Taken in Closed Session**

4. STUDENT BOARD MEMBER REPORT - Perla Valdivia Ayvar - Mt. Madonna High School (*information item*)

5. SUPERINTENDENT'S REPORT - Dr. Deborah Flores (*information item*)

6. CONSENT AGENDA

- a. Personnel Items**

Board approval is requested of the recommended personnel items.

- b. Approval of Board Meeting Minutes: May 6, 2021 (*action item*)**

Board approval is requested of the Board Meeting minutes from the May 6th meeting.

c. Title 1 - Part A Schoolwide Program (SWP) Waiver for Luigi Aprea Elementary School

Luigi Aprea elementary school currently receives Title 1 funding as a Title 1 Targeted Assistance school. This request is for a waiver for Luigi Aprea elementary school to receive funds as a Title 1 Schoolwide Program.

d. Monthly Donations Report – May 2021

This is the May 2021 report of donations from the community to the schools of the Gilroy Unified School District.

e. Report of Cash Disbursements/Warrants for the Month of April, 2021

This is the report of Cash Disbursements/Warrants for the Month of April, 2021.

f. RENEWAL Memorandum of Understanding (MOU) with the Santa Clara County Office of Education (SCCOE) for the Datazone data warehouse platform (not to exceed \$41,688.50)

Board approval is requested of the renewal of this MOU with the SCCOE for the Datazone data warehouse platform. Datazone provides data warehousing and analytic tools. It integrates state assessments, local assessments, attendance, grades and behavior information in one platform.

g. RENEWAL of Service Agreement with TriCounties Speech Services, Inc. (not to exceed \$10,000)

Board approval is requested of this service agreement with TriCounties Speech Services, Inc. for the 2021-2022 school year to provide bilingual speech assessments.

h. RENEWAL of Service Agreement with Dr. Megan Stone, D.O.(not to exceed \$1,500)

Board approval is requested of the service agreement with Dr. Megan Stone, D.O. for the 2021-2022 school year. This service agreement is for providing oversight monitoring of required medical protocols and prescriptions.

i. RENEWAL Contract with Edmentum-Courseware Online Curriculum (\$292,754)

Board approval is requested for the renewal of this contract with Edmentum Calvert-Courseware online curriculum for the Virtual Learning Academy (VLA), Envision Academy, and the high schools' Credit Recovery program.

j. Gilroy Unified School District Three-Year Expulsion Plan

The California department of Education requires districts and county office of educations to submit expulsion plans every three years. Approval of this plan is requested.

7. PUBLIC HEARING

a. Public Hearing: GUSD 2021-22 Budget (*information item*)

Álvaro Meza, Assistant Superintendent of Business Services/C.B.O., and Kimberly Smith, Director of Fiscal Services, will provide an overview of the 2021-22 budget during this public hearing.

b. Public Hearing on the Local Control Accountability Plan (LCAP) (*action item*)

Staff will give a presentation during the public hearing on the Local Control Accountability Plan (LCAP) and will present the 2021-22 draft of the GUSD LCAP.

8. ACTION/INFORMATION ITEMS

a. Cost Share Proposal from the City of Gilroy for Safety Improvements to W. 10th Street and Orchard Drive (not to exceed \$81,447.63) (*action item*)

Álvaro Meza, Assistant Superintendent, Business Services/C.B.O., and Gary Heap, City Engineer, will present the City of Gilroy's proposed safety improvements at 10th Street and Orchard Street. The safety improvements will be beneficial to students, staff, and the community, and greatly enhance the safety of the pedestrian crosswalk.

b. Reopening of Schools Update (*information item*)

Dr. Deborah A. Flores, Superintendent and staff will provide updates about plans for reopening Gilroy schools at each Board Meeting until the end of the school year. The updates will provide information about the reopening of elementary schools this school year and will provide information about plans for the fall 2021 for both the elementary and secondary levels.

c. Resolution # 20/21-16 Classified School Employee Week (*action item*)

Dr. Deborah A. Flores, Superintendent, will present Resolution #20/21-16 declaring the week of May 16-22, 2021 as "Classified School Employee Week" in the Gilroy Unified School District.

d. Expanded Learning Opportunities (ELO) Grant (*action item*)

The California Legislature provided \$6.6 billion in the Assembly Bill 86 COVID-19 relief package including \$2 billion for In-Person Instruction (IPI) Grants and \$4.6 billion for Expanded Learning Opportunities (ELO) Grants. Governor Newsom signed AB86 on March 5, 2021. The district is eligible for the ELO grant funds in the amount of \$7.4 million. Staff will present the district's ELO grant for approval.

In May 2021, the district will receive an apportionment that represents 50 percent of the ELO allocation and the district will receive the remaining 50 percent of the allocation in August 2021.

e. Contract Amendment with Sodexo America for 2021-22 (\$2,757,047) (*action item*)

Álvaro Meza, Assistant Superintendent of Business Services/C.B.O, will present the contract amendment with Sodexo America for Board action. The contract amendment covers the period of July 1, 2021 to June 30, 2022.

f. Approval of Purchase of Core Classroom Technology Equipment and Proposed Updated Standards (not to exceed \$3.5 million) (*action item*)

Maribel Guizar, Director of Technology, will present the proposal to purchase 388 86" interactive displays for Solarsano Middle School, South Valley Middle School, and district high schools. This purchase will be funded from the Expanded Learning Opportunity (ELO) Grant.

g. Monthly District Cash Flow Update – April 2021 (*information item*)

Kimberly Smith, Director of Fiscal Services, will present the monthly district cash flow update to the Governing Board.

h. Second Reading of Recommended Instructional Materials for Middle School Social Studies, High School Social Studies and High School Culinary Arts Textbook Adoption (*action item*)

Staff will present the second reading of the recommended instructional materials for Middle School Social Studies, High School Social Studies and High School Culinary Arts.

i. Community Service: Update Report to the Board of Education (*action item*)

As the State and County restrictions due to Covid-19 have eased it is requested that the Board reinstitute the ability for students to attend in-person community service opportunities beginning June 7, 2021.

j. Board Policies Revisions (March 2021): First Reading (*discussion item*)

Updates to GUSD Board Policies will be presented for a first reading.

9. ACTION/INFORMATION ITEMS REGARDING FACILITIES AND MAINTENANCE

a. Monthly Maintenance and Facilities Update – May 2021 (*information item*)

Paul Nadeau, Director of Facilities, and Dan McAuliffe, Manager of Maintenance, will present the monthly Facilities and Maintenance Update.

b. Resolution No. 20/21-15, Permission to Solicit Bids for the New Plaza Project at Gilroy High School

Paul Nadeau, Director of Facilities, will present this resolution for Board action.

c. Approval of Contract Amendment with Golden PMI, Inc., for Installation of Furniture at Brownell Middle School (not to exceed \$5,480)

Paul Nadeau, Director of Facilities, will present the contract amendment with Golden PMI, Inc., for the Brownell Middle School Modernization Project.

d. Approval of Contract Amendment with Hollister Moving and Storage for Brownell Middle School (not to exceed \$3,524)

Paul Nadeau, Director of Facilities, will present the contract with Hollister Moving and Storage for the Brownell Middle School Modernization Project.

e. Approval of Contract with FaciliServ for Service and Minor Repairs to the Christopher High School Gym Bleachers, Retractable Basketball Backstops and the Gilroy High School and Christopher High School Stadium Bleachers (not to exceed \$16,000)

Dan McAuliffe, Maintenance and Operations Manager, will present the contract with FaciliServ.

f. Ratification of the Purchase with Standard Plumbing Supply Co. for the Replacement Water Heater for the Kitchen at Christopher High School (not to exceed \$7,924.30)

Dan McAuliffe, Maintenance and Operations Manager, will present the purchase with Standard Plumbing Supply.

10. BOARD MEMBER REPORTS

11. UPCOMING AND NEW/REFERRAL AGENDA ITEMS

12. ANNOUNCEMENTS

The next REGULAR MEETING of the Board of Education will be held on Thursday, June 10, 2021 via Teleconference. Closed Session will begin at 5:30 p.m., followed by the Regular meeting at 7:00 p.m. The agenda will be available on the district's website by 5:00 p.m., on Friday, June 4th.

- a. If necessary, the Board will adjourn to closed session to continue the discussion of items in Section 2 above.**

13. ADJOURNMENT

ALL MEETING PACKET MATERIALS ARE AVAILABLE ONLINE AT www.gilroyunified.org

In compliance with the Americans with Disabilities Act, the District will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Executive Assistant at the Gilroy Unified School District Office 48 hours prior to the meeting at (669) 205-4091.

Gilroy Unified Unified School District
Three Year Expulsion Plan

Between the
Gilroy Unified School District
and
The Santa Clara County Office of Education

For the implementation of Education Code 48916.1

Dr. Deborah A. Flores, Superintendent

Dr. Deborah Padilla, Assistant Superintendent
Educational Services Division

Jami A. Whedbee
District Expulsion Coordinator

The Gilroy Unified School District Plan
Educational Alternatives for Expelled Students

The following plan describes the Gilroy Unified School District's policies and procedures for ensuring that students expelled from the District have appropriate educational options during the term of expulsion. The information in this document reflects a triennial update of the 2018 plan, and is formatted to respond to the requirements and recommendations put forth by the California Department of Education.

Describe current program offerings, interventions, and administrative referrals or placements.

The Gilroy Unified School District employs a Multi-Tiered System of Support (MTSS) for prevention and early intervention related to student conduct that could potentially lead to expulsion.

All schools in the District have been or are being trained in Positive Behavioral Intervention and Supports (PBIS). The PBIS coaching, technical assistance and support for site implementation teams is supported by the Student Services department.

The GUSD participates in two Santa Clara County initiatives called School Linked Services and Prevention Early Intervention. Those initiatives have helped the District develop a robust system of mental health services provided on campus by our community partners. The District's School Linked Services Coordinator serves as the point person for counseling referrals, manages enrollment in family-centered programs such as the Positive Parenting Program, links students and families to material resources such as food, clothing and school supplies and connects them with services such as low- or no-cost health exams and immunizations.

The District partners with three local counseling agencies to provide a variety of mental health services to students: Community Solutions, Rebekah Children's Services and Discovery Counseling Center. Prevention and Early Intervention (PEI) Program (provided by Community Solutions and Rebekah) is an evidence-based program which incorporates skill-building for students and families to promote a positive connection to school and to foster academic success and is provided at all sites. In addition, these same CBOs also provide counseling services to middle and high school aged students in our schools with high poverty rates. Discovery Counseling provides Marriage and Family Therapist interns and trainees to every campus in the District for individual and group counseling support. We have also partnered with the South County Youth Task

forces that provides a variety of services including restorative justice support/training, mentorship, wrap services and parent supports.

Because of the high cost of housing in Gilroy, the GUSD has a high rate of students experiencing homelessness as defined by the McKinney-Vento Act. The District has developed a team of certificated and classified employees to provide direct service to homeless, foster, and low income students in grades 6 - 12. The Coordinated Advocacy and Resources for Education (CARE) team members work directly with students and families to connect them with resources and services, as well as provide academic counseling, mentoring and basic behavioral coaching to help students meet their goals.

The District is building capacity in Restorative Justice (R. J.) practices as part of our MTSS focus. School administrators have a working understanding of the principles of R.J. and incorporate them into their PBIS implementation. Staff at a few schools have been trained to facilitate harm-repair circles.

School staff in the District are in the exploration phase of implementing trauma-informed practices. All certificated TK - 12 staff have engaged in professional development, led by professional trainers from one of our community partners. Trauma-informed practices shifts the focus from “what is wrong with you?” to “what happened to you?” and is especially valuable in responding to chronic student misbehavior.

As part of the district’s trauma-informed practice, staff are in the third year of implementation of Kognito, a trauma informed practice platform that provides simulations around suicide prevention, de-escalation, and trauma sensitive issues.

The District participates in a collaborative group known as the South County Youth Task Force (SCYTF). A partnership between the cities of Morgan Hill and Gilroy, this group is comprised of representatives from the police department, school district, and city government, along with a wide variety of local youth-focused agencies such as the YMCA, Juvenile Probation, the faith community, gang-intervention specialists and the District Attorney’s office. The SCYTF serves as a forum to identify high-risk students and connect them with a higher level of intervention than what is available through the standard school program.

When a student is recommended for expulsion and goes through due process, there are a range of placement options that the District considers including.

- Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).

- Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
- Expulsion with referral to the Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.

Identify gaps in educational services to expelled youth.

In 2018-19, there was a significant geographical distance between the GUSD schools and the SCCOE operated schools and programs. This meant that in order to get GUSD expelled students to school, they were either bussed, by GUSD, the students, took public transportation which incurred a cost, and was not time-efficient for students to get to San Jose, or the parent provided transportation which was often challenging for the parents.

Starting in 2019-2020, the SCCOE opened a satellite campus in Gilroy. This significantly helped address the distance issues; however, for some families' transportation remained an issue.

In the 2020-21 school year, expelled students had the choice to attend of the SCCOE San Jose location and the SCCOE Gilroy location, which provided some reprieve for families. Also due to the COVID closures the GUSD students were able to participate via distance learning. The District does not provide transportation for expelled students and for some families transportation continues to pose a challenge in ensuring that students have access to their educational placement.

The cost of one allocation in the SCCOE program has nearly tripled. The number of alternative education seats that the District reserves annually has fluctuated between 5-15.

Identify alternative placements for pupils who are expelled but fail to meet the terms of their rehabilitation plan.

A student who has been expelled from the Gilroy Unified School District under Education Code 48900 or 48915 and who has failed to find success in a variety of placement options within the county-operated Community School programs is then referred back to the District's Department of Student Services.

The District will work with the County Office of Education to identify the best placement for the expelled student who has been dropped from a county program. A meeting with all concerned parties (parent, student, county staff, and the District) may be held to explore other alternatives such as:

- Placement in another county Community School or program
- Independent Study through a county Community School
- Placement in a probation-ordered educational program such as Edge

- Recommendation for a residential program such as Grizzly Youth Academy
- Recommendation for an employment-training program such as Job Corps
- A more restrictive educational placement in accordance with the services delineated in the student's IEP

Plan for Expelled Students Who Commit Subsequent Violations

Students who have been readmitted to the District after an expulsion return to regular student status. They can be assigned to a support program at their school of residence to assist in their transition from a community school to a comprehensive secondary school. If a student commits an expellable offense after readmission, and all alternative means of correction have been exhausted, the student may be referred for expulsion again.

Plan For Providing Educational Services To All Expelled Students In Santa Clara County

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

Santa Clara County Office of Education Plan for Expelled Students

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to around 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2021 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

Existing Educational Alternatives for Expelled Students

All educational alternatives provided by California’s school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section

48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program (if student/family agrees)

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Countywide Identified Gaps

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings.

2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to

provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at defusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

3. Students in grades K-6 who are expelled do not have the same educational options available as do their counterparts in grades 7-12. Students in grades K-6 are expelled at a much lower rate than students in grades 7-12. These two factors, together with the requirement that educational services for students in grades K-6 cannot be merged or combined with services to students in grades 7-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-6 services in county community schools is a barrier. It is important to work with the California Department of Education to increase funding to establish and maintain an educational alternative for expelled students in grades K-6.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires that Santa Clara County Office of Education to operate on a chargeback system to our participating districts. To ensure that a community school program is being provided the allotments have increased significantly to allow proper staffing at the community school to serves expelled youth. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

5. Districts continue to focus on disproportionate representation of minority students in interventions. Strategies to address this concern include differentiation, individualization, use of an equity lens in the planning and

development of culturally relevant activities and ongoing professional development for staff to ensure employees are culturally sensitive and linguistically proficient.

Gilroy Unified Board Policies that are specific to expelled youth.

[Gilroy USD](#) | BP 5144.1 Students

Suspension And Expulsion/Due Process

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. [5131](#) - Conduct)

(cf. [5131.1](#) - Bus Conduct)

(cf. [5131.2](#) - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law and the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or other school district, regardless of when it occurs, including, but not limited to, the following: (Education Code [48900](#)(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. [5112.5](#) - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension and Expulsion

Except when a student commits an act that violates Education Code [48900](#)(a)-(e) or his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct.

Except when a student commits an act listed in Education Code [48915](#)(c), the Superintendent or designee shall have the discretion to determine whether to recommend to the Board that the student be expelled.

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

To correct the behavior of any student who is subject to discipline, the Superintendent or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144 - Discipline. (Education Code [48900.5](#), [48900.6](#))

(cf. [1020](#) - Youth Services)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. [5113](#) - Absences and Excuses)

(cf. [5113.1](#) - Chronic Absence and Truancy)

District staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal.

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code [48911](#), [48915](#), [48915.5](#), [48918](#))

(cf. [5119](#) - Students Expelled from Other Districts)

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

Removal from Class by a Teacher and Parental Attendance

When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code [48900.1](#))

Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the teacher and the student and his/her parents/guardians and to improve the student's behavior.

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code [48900.1](#))

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law and that, if there are reasonable factors that may prevent the parent/guardian from complying with the requirement, he/she should contact the school. (Education Code [48900.1](#))

(cf. [5145.6](#) - Parental Notifications)

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code [48900.1](#))

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by any method that maintains the confidentiality of the student's records.

(cf. [5125](#) - Student Records)

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code [48900.1](#))

Supervised Suspension Classroom

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code [48900](#) and [48900.2](#), but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

Decision Not to Enforce Expulsion Order

Upon voting to expel a student, the Board may suspend enforcement of the expulsion order pursuant to the requirements of law and administrative regulation. (Education Code [48917](#))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code [48900.8](#) and [48916.1](#), including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

The report shall be disaggregated by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, and students with disabilities.

The report also shall include information about whether and how the **district is meeting its goals for improving school climate as specified in its local control and accountability plan.**

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

[212.5](#) Sexual harassment

[233](#) Hate violence

[1981](#) Enrollment of students in community school

[17292.5](#) Program for expelled students

[32261](#) Interagency School Safety Demonstration Act of 1985

[35145](#) Open board meetings

[35146](#) Closed sessions (regarding suspensions)

[35291](#) Rules (for government and discipline of schools)

[35291.5](#) Rules and procedures on school discipline

[48645.5](#) Readmission; contact with juvenile justice system

[48660-48666](#) Community day schools

[48853.5](#) Foster youth

[48900-48927](#) Suspension and expulsion

[48950](#) Speech and other communication

[48980](#) Parental notifications

[49073-49079](#) Privacy of student records

[52060-52077](#) Local control and accountability plan

CIVIL CODE

[47](#) Privileged communication

[48.8](#) Defamation liability

CODE OF CIVIL PROCEDURE

[1985-1997](#) Subpoenas; means of production

GOVERNMENT CODE

[11455.20](#) Contempt

[54950-54963](#) Ralph M. Brown Act

HEALTH AND SAFETY CODE

[11014.5](#) Drug paraphernalia

[11053-11058](#) Standards and schedules

LABOR CODE

[230.7](#) Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

[31](#) Principal of a crime, defined

[240](#) Assault defined

[241.2](#) Assault fines

[242](#) Battery defined

[243.2](#) Battery on school property

[243.4](#) Sexual battery

[245](#) Assault with deadly weapon
[245.6](#) Hazing
[261](#) Rape defined
[266c](#) Unlawful sexual intercourse
[286](#) Sodomy defined
[288](#) Lewd or lascivious acts with child under age 14
[288a](#) Oral copulation
[289](#) Penetration of genital or anal openings
[417.27](#) Laser pointers
[422.55](#) Hate crime defined
[422.6](#) Interference with exercise of civil rights
[422.7](#) Aggravating factors for punishment
[422.75](#) Enhanced penalties for hate crimes
[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission
[626.9](#) Gun-Free School Zone Act of 1995
[626.10](#) Dirks, daggers, knives, razors, or stun guns
[868.5](#) Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

[729.6](#) Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

[1415\(K\)](#) Placement in alternative educational setting

[7151](#) Gun-free schools

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter on the Nondiscriminatory Administration of School
Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools:

<http://www.ed.gov/about/offices/list/osdfs>

PolicyMORGAN HILL UNIFIED SCHOOL DISTRICT

adopted: June 23, 2015 Morgan Hill, California

[Morgan Hill USD](#) | AR 5144.2 Students

Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC [1400-1482](#), is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR [300.536](#). (Education Code [48903](#); 34 CFR [300.530](#))

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. [6159](#) - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR [300.536](#))

1. The removal is for more than 10 consecutive school days.

2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:

- a. The series of removals total more than 10 school days in a school year.
- b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
- c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC [1412\(a\)\(1\)\(A\)](#); 34 CFR [300.530](#))

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code [48915.5](#)) (cf. [3541.2](#) - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.530](#))

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.531](#))

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to

allow him/her to participate in the general education curriculum and to progress toward meeting the

goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC

[1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

(cf. [5145.6](#) - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC

[1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

a. Caused by or had a direct and substantial relationship to the student's disability

b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the

behavioral intervention plan and modify it as necessary to address the behavior. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

(cf. [6158](#) - Independent Study)

(cf. 6185 - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR [300.530](#) (suspension and removal for dangerous circumstances) or 34 CFR [300.531](#) (interim alternative placement), or the manifestation determination under 34 CFR [300.530\(e\)](#), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR [300.507](#) and [300.508\(a\)](#) and (b). (20 USC [1415\(k\)\(3\)](#); 34 CFR [300.532](#))

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR [300.507](#), [300.508](#) (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR [300.532](#) as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC [1415\(k\)\(4\)](#); 34 CFR [300.533](#))

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities,

an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code [48917](#))

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian.

(Education Code [49076](#))

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code [48203](#))

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC [1414\(a\)\(1\)\(B\)](#) or 34 CFR [300.300-300.311](#).
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to

34 CFR [300.300-300.311](#), the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR [300.530](#), the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Legal Reference:

EDUCATION CODE

[35146](#) Closed sessions re: suspensions

[35291](#) Rules of governing board

[48203](#) Reports of severance of attendance of disabled students

[48900-48925](#) Suspension and expulsion

[49076](#) Access to student records

[56000](#) Special education; legislative findings and declarations

[56320](#) Educational needs; requirements

[56321](#) Development or revision of individualized education program

[56329](#) Independent educational assessment

[56340-56347](#) Individualized education program teams

[56505](#) State hearing

PENAL CODE

[245](#) Assault with deadly weapon

[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission

[626.9](#) Gun-Free School Zone Act

[626.10](#) Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

[1412](#) State eligibility

[1415](#) Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

[706](#) Definitions

[794](#) Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

[104.35](#) Evaluation and placement

[104.36](#) Procedural safeguards

[300.1-300.818](#) Assistance to states for the education of students with disabilities,
especially:

[300.530-300.537](#) Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp.
1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

Regulation MORGAN HILL UNIFIED SCHOOL DISTRICT

approved: November 13, 2012 Morgan Hill, California



Minutes of Regular Meeting of the Board of Education
April 27, 2021

1. CALL MEETING TO ORDER

Minutes:

President Norwood calls meeting to order.

2. ROLL CALL

Minutes:

President Norwood, Vice President Yip-Chuan, Clerk Hon Lien and Board Member Minh Ngo are in-person for meeting. Board Member Tsai participates virtually.

Student Board Rep Matheos and Stanley join virtually for public session.

3. REVIEW AND APPROVE THE CLOSED SESSION AGENDA

Minutes:

Motion: Lien

Second: Yip-Chuan

Action: 5-0

4. COMMENTS FROM THE PUBLIC

5. CLOSED SESSION

A. Personnel (Pursuant to Government Code Section 54957)

-Public employee discipline/dismissal/release/resignation

B. Conference with Labor Negotiators (Pursuant to Government Code Section 54957.6) -Milpitas Teachers Association (MTA): Jonathon Brunson, Assistant Superintendent of Human Relations

6. RECONVENE IN OPEN SESSION

7. CLOSED SESSION ANNOUNCEMENT

Minutes:

In closed session, the Board voted unanimously to accept the resignation of a Middle School Assistant Principal. The effective date will be June 30, 2021.

In closed session, the Board voted unanimously to accept the resignation of a Manager of Business Services. The effective date was March 31, 2021.

8. REVIEW AND APPROVE THE OPEN SESSION AGENDA

Minutes:

Motion: Ngo

Second: Yip-Chuan

Action 5-0

9. FLAG SALUTE

10. COMMENTS FROM THE PUBLIC

Minutes:

Public comments by Joseph Weinstein, Margaret Jackson, Alex Xavier, Bill Chuan and Jackie Romero, representing Milpitas Parent Coalition.

11. MUSD 2018-2021 STRATEGIC GOALS

12. SUPERINTENDENT'S REPORT

A. Recognitions

Minutes:

Superintendent Jordan leads recognitions for the following:

1) Aarav Valayil, a 7th grader at Rancho Milpitas Middle School, for winning artwork in the City of Milpitas' 2021 Black History Month Martin Luther King Jr. Essay and Art Contest.

2) Sahana Valayil, a 5th grader at Pearl Zanker Elementary School, for winning essay in the City of Milpitas' 2021 Black History Month Martin Luther King Jr. Essay and Art Contest.

3) Zoe Ngo, a 2nd grader at Rose Elementary School, for winning artwork in the City of Milpitas' 2021 Black History Month Martin Luther King Jr. Essay and Art Contest.

4) Candria D'Souza, a 7th grader at Rancho Milpitas Middle School, for her winning essay in the City of Milpitas' 2021 Black History Month Martin Luther King Jr. Essay and Art Contest.

5) Gwan Alisantosa and Manuel Mallabo, of Knights of Columbus, for their donation in support of Milpitas Unified School District.

6) Rancho Milpitas Middle School for being recognized by the California Department of Education as a 2021 California Distinguished School.

B. COVID-19 Update

Minutes:

Superintendent Jordan shares a COVID-19 update with the Board and Community, including the COVID-19 Dashboard on the MUSD Coronavirus webpage, the latest information regarding student and staff testing, and County Public Health guidelines for graduation ceremonies.

MUSD Innovators on the Move! video series highlights Student Nutrition Services.

C. Defining Culture of WE - Strategic Goal #1

Minutes:

Superintendent Jordan defines the district's Culture of WE and explains it in reference to Strategic Goal 1: Build a Culture of We that engages parents, staff, and community partners in supporting student success.

13. SUPERINTENDENT'S EXECUTIVE CABINET REPORTS

Minutes:

Principal's Report: Pomeroy Principal Nichol Klein and her Pomeroy Elementary Team focus on the Social Emotional Learning taking place within their school community throughout the 2020-21 year. Klein shares how attendance has jumped 1.3 percent from 97.2 last year to 98.5 this year. Principal Klein is joined by school psychologist Jessica Bui, teacher Courtney Caglia Hilty, and sixth grader Anoushka Mitra. Bui shares how the Pomeroy staff has incorporated a weekly Social-Emotional Learning lesson into each of their classrooms to help promote self-awareness, self-management, social awareness, relationship skills and responsible decision-making. Caglia Hilty is the coordinator for Pomeroy's Building Effective Schools Together (BEST) program, which is now in its 12th year. Mitra is a PeaceMaker and helps with online activities for students.

Business Services: Assistant Superintendent Wendy Zhang follows up from the last board meeting in regards to the contractor who built the original MHS staircase; and provides status of Emergency Repair of Building L Staircase at Milpitas High.

Learning & Development: Assistant Superintendent Norma Rodriguez shares will be celebrating 23 teachers successfully completed the new teacher colloquial for induction program on May 6; and honoring students who completed the biliteracy program pathway at a virtual Multicultural ceremony on May 9.

Human Relations: Assistant Superintendent Jonathon Brunson gives congratulations principals on moving quickly in hiring process for next school year; and thanks staff and employee associations on completing two MOUs for In-Person Learning.

14. BOARD GROUP AGREEMENTS

15. BOARD COMMUNICATIONS/REQUESTS

Minutes:

Student Board Rep Stanley shares that MHS is in the last stretch of semester with finals and AP exams around corner so focusing on self care and mental health; upcoming events include Trojan Olympics and an end of year rally; participating in Cards for Humanity to send virtual cards to frontline workers; and raising awareness for Stop AAPI hate.

Board Member Ngo attended the CBAC meeting, County Legislative Action meeting, MHS football game, Milpitas Stop AAPI Hate rally, SCCSBA meeting, Rotary, Historical Society, Second Harvest Food Distribution, Rose School Site Council and meeting with Assemblymember Alex Lee; and made visits to Rose, Pomeroy, Rose CDC and Sunnyside CDCs for first week of In-Person Learning,

Board Member Tsai attended SCCSBA meeting and rallies around county to Stop AAPI hate; spoke at vigil for victims of Indianapolis shooting; and continuing to do research on reopening and the virus.

Vice President Yip-Chuan attended City-School Collaborative meeting; Governance with Equity Lens; spoke at Milpitas Stop AAPI Hate Rally; attended Milpitas Community Advisory Commission; Metro Ed meeting; and met with Assemblymember Alex Lee; and attended MHS track meet.

Clerk Lien attended Juvenile Justice meeting with MPD Captain Morales and Chief Hernandez; and visited the Adult Ed Team to celebrate Adult Ed Week.

President Norwood attended several MHS football games, an MHS track and field meet, two SCCSBA Legislative Action Committee meetings, City-School Collaborative meeting; and delivered apples to In-Person staff at Zanker, Mattos and MHS.

16. REPORTS

A. Quarterly Report - Williams Settlement Compliance (Superintendent's Office)

Minutes:

Communications Specialist Forstner shares there were no complaints

for the third quarter from January 1, 2021 - March 31, 2021.

B. Expanded Learning Opportunity (ELO) Plan (Assistant Superintendent, Learning & Development)

Minutes:

Assistant Superintendent of Learning and Development Norma Rodriguez and Director Raquel Kusunoki led the presentation on MUSD's Expanded Learning Opportunity Plan in accordance with Assembly Bill 8, which provides funding to eligible school districts to implement learning recovery programs. The plan provides supplemental instruction, supports for social and emotional well-being and; to the maximum extent permissible, meals and snacks to specified student groups, as defined in California Education Code Section 43522.

Staff reviews the requirements for and development of the Expanded Learning Opportunities Grant Plan. Additionally, Staff shares how various stakeholders in MUSD are envisioning support for students and preliminary summer extension offerings.

Public Comment by Robert Jung.

C. Escuela Village Tutoring Pilot (Assistant Superintendent, Learning & Development)

Minutes:

Thomas Russell Middle School Principal Sean Anglon shared an overview on the impact of the Escuela Village Tutoring Program, lessons learned and recommendations for expansion 2021 in this report. Anglon was assisted by teacher lead Edgar Aguilar-Chavarria, Associate Professor Dr. David Lopez, and Weller Principal Deanna Sainten to explain the Escuela Village Tutoring Program pilot.

D. Measure AA Bond Projects Update (Assistant Superintendent, Business Services)

Minutes:

Travis Kirk, of TBK Construction, offered a brief update on the Measure AA projects, including: Randall Modernization, Phase II of Mattos, Rancho and Russell track and fields, and the Milpitas High gymnasium and theater.

17. ACTION ITEMS

A. Adopt Resolution 2021.33 Recognizing and Honoring April 2021 as Autism Acceptance Month (Superintendent's Office)

Minutes:

Motion: Ngo

Second: Yip-Chuan

Action: 5-0.

MUSD students Aaron McRoads, Shamir Morely, Yugandhar Kekare, Carl Sullivan, and Lleyton Jethro Mintu's video reading of Resolution 2021.33 Recognizing and Honoring April as Autism Acceptance Month, with guidance from MUSD Director of Student Services and Special Education Mary Jude Doerpinghaus, is played for Board and community.

B. Sunshine Proposal: Milpitas Unified School District Initial Proposal for Reopeners of Collective Bargaining Agreement (CBA) to Classified School Employees Association (CSEA) Chapter 281

Minutes:

Motion: Yip-Chuan

Second: Lien

Action: 5-0

C. Sunshine Proposal: Classified School Employees Association (CSEA) Chapter 281 to Milpitas Unified School District Initial Proposal for Reopeners of Collective Bargaining Agreement (CBA)

Minutes:

Motion: Lien

Second: Ngo

Action: 5-0

D. Conduct one reading and adopt the proposed revision to existing Board Policies 4119.11 (Unlawful Harassment of Employees) & Board Policy 5145.70 (Sexual Harassment - Students). (Assistant Superintendent, Learning & Development)

Minutes:

Motion: Ngo

Second: Lien

Action: 5-0

E. Conduct one reading and adopt the proposed revision to existing Board Policies 4111 (Recruitment and Selection), Board Policy 4131 (Personnel: Staff Development) & Board Policy 5144.1 (Suspensions and Expulsions). (Assistant Superintendent, Learning & Development)

Minutes:

Motion: Lien

Second: Yip-Chuan

Action: 5-0

F. Conduct the first of three readings of newly proposed Board Policy 0415 (Equity). The first reading is scheduled for April 27th, with the second and third readings taking place on May 11th and May 25th respectively. (Assistant Superintendent, Learning & Development)

Minutes:

Motion: Ngo

Second: Yip-Chuan

Action: 5-0

G. Approve Robert A Bothman Construction's Agreement for the Rancho Track & Field Project. (Assistant Superintendent, Business Services)

Minutes:

Motion: Yip-Chuan

Second: Lien

Action: 5-0

H. Resolution 2021.34 requesting to establish tax rate for bonds of Milpitas Unified School District expected to be sold during fiscal year 2021-22, and authorizing necessary actions in connection therewith. (Assistant Superintendent, Business Services)

Minutes:

Motion: Ngo

Second: LIen

Action: 5-0

I. Resolution 2021.35 to establish Student Activity Special Revenue Fund 088. (Assistant Superintendent, Business Services)

Minutes:

Motion: Ngo

Second: Yip-Chuan

Action: 5-0

J. Approve DCG Strategies Property Investments to Evaluate the Murphy Property (Assistant Superintendent, Business Services)

Minutes:

Motion: Lien

Second: Yip-Chuan

Action: 5-0

Public comment by Jackie Romero.

**K. Select candidates for CSBA Delegate Assembly runoff election
(Superintendent's Office)**

Minutes:

Board selects Vin Le and Andres Quintero from 3-candidate pool.

Motion: Ngo

Second: Lien

Action: 5-0

18. CONSENT ITEMS

Minutes:

Motion: Lien

Second: Yip-Chuan

Action: 5-0

**A. Approve Purchase Order of April 27, 2021 (Assistant
Superintendent, Business Services)**

B. Personnel Report (Assistant Superintendent, Human Relations)

**C. Approve Meeting Minutes of March 23, 2021 (Superintendent's
Office)**

**D. Approve Special Meeting Minutes of March 30, 2021
(Superintendent's Office)**

**E. Approve Special Meeting Minutes of April 13, 2021
(Superintendent's Office)**

**F. Approve Ciari Plumbing and Heating, Inc. for Storm Drain and
Irrigation Repair at Milpitas High School (Assistant Superintendent,
Business Services)**

**G. Fagen Friedman & Fulfrost LLP Agreement for Legal Services
(Assistant Superintendent, Human Relations)**

**H. Approve the Lease Amendment with Calaveras Montessori (Assistant
Superintendent, Business Services)**

**I. Enrollment Projection Consultants' Proposal for 2020-2021
(Superintendent's Office)**

**J. Contract with Uplift Family Services for Wraparound Mental Health
Services (Assistant Superintendent, Learning and Development)**

K. Approve the Agreement with Spectrum Center, Inc., Non Public School, Student AD (Assistant Superintendent, Learning & Development)

L. Milpitas Unified School District Three Year Expulsion Plan (Assistant Superintendent, Learning and Development)

M. Approve the CCAP College and Career Access Pathways

Partnership Agreement: A Dual Enrollment Agreement

July 2021-June 2023 "CCAP Agreement" between SJECCD and

MUSD (Superintendent)

N. Approve Cornerstone Earth Group's Agreement for Geotechnical Services for the Rancho and Russell Track & Field Projects. (Assistant Superintendent, Business Services)

O. Approval CIS, Inc.'s Agreement for Inspector of Record services on Spangler Elementary Modernization. (Assistant Superintendent, Business Services)

P. Approve Pavement Engineering, Inc.'s Agreement for the Paving Project at Rose Elementary. (Assistant Superintendent, Business Services)

Q. Approve Padre's Amendment #1 to the Air Monitoring Contract on Phase II at Mattos. (Assistant Superintendent, Business Services)

R. Approve San Francisco Roofing Services' Agreement for the Rose Roofing Project. (Assistant Superintendent, Business Services)

S. Approve LPA Architects' Amendment for Solar Parking Canopies to Milpitas High Gym & Performing Arts Center Agreement. (Assistant Superintendent, Business Services)

T. Approve Cornerstone Earth Group's Amendment No. 1 for Geotechnical Investigation and Geologic Hazards Evaluation at Randall Modernization. (Assistant Superintendent, Business Services)

U. Approve City of Milpitas JUA Amendment #2 for Mattos Elementary (Assistant Superintendent, Business Services)

V. Letter of Support for CityLab Pre-Apprentice on the job training program (File #29710) and Apprentice Program (File #100319) (Assistant Superintendent, Business Services)

W. Approve Best Contracting Service, Inc.'s Agreement for the Rancho Roofing Project. (Assistant Superintendent, Business Services)

X. Approve Foothill Air Conditioning's Agreement for the HVAC Replacement Project at Zanker. (Assistant Superintendent, Business Services)

Y. Approve Milpitas High School fiber upgrades (Assistant Superintendent, Business Services)

Z. New switches and WAPS for Mattos and Randall and network equipment for MHS fiber upgrade (Assistant Superintendent, Business Services)

AA. Approve Courtney, Inc.'s Agreement for the Sinnott Roofing Project. (Assistant Superintendent, Business Services)

BB. Approve the Items as Obsolete Equipment (Assistant Superintendent, Business Services)

CC. Approve Program Manager-Inclusion

Job Description Certificated Management

(Assistant Superintendent, Human Relations)

DD. Approve Revised Job Descriptions for MOT Supervisor - Mechanical and Electrical/HVAC/Locks/Painting/Maintenance and MOT Supervisor - Custodial (Assistant Superintendent, Human Relations)

EE. New Job Description Executive Director, Innovation and Digital Learning Certificated Management (Assistant Superintendent, Human Relations)

FF. Accept donations to the Milpitas Unified School District (Assistant Superintendent, Business Services)

19. DATES OF FUTURE BOARD MEETINGS

20. ANNOUNCEMENTS/REMINDERS

Minutes:

Board Member Ngo announces the next Second Harvest Food Bank distribution on Saturday, May 1.

Superintendent Jordan announces a Sunnyhills Neighborhood Association meeting where the district will be presenting on Saturday, May 1.

President Norwood announces the vaccination site for Wednesday at the Milpitas Sports Center.

A. President's Circle

21. ADJOURNMENT

Minutes:

Motion: Lien

Second: Ngo

Action: 5-0

Respectfully submitted,

Attested:

Cheryl Jordan
Superintendent

Clerk of the Board

Minutes prepared by Scott Forstner



Three Year Expulsion Plan Between the

Milpitas Unified School District

&

Santa Clara County Office of Education

2021-2024

For the implementation

of

Education Code 48916 .1



LEARNING AND DEVELOPMENT

INTRODUCTION

Educational programs within Santa Clara County provide numerous opportunities for students who are in need of traditional and/or alternative education programs. While individual school districts offer a broad spectrum of services and the County Office of Education offers additional options, this combination provides a continuum of alternatives to expelled students.

A student whose behavior has resulted in expulsion is given a rehabilitation plan that is designed by the district of residence. This plan may involve one or more of the options outlined. A student who is simply in need of an educational alternative may also access these programs through a District and/or County referral process.

The Milpitas Unified School District will utilize County services as determined by the District's Board of Education when appropriate.

All gaps in services are addressed in the attached remediation plan. If a student violates conditions of the plan, moves out of the District, while under expulsion, is sent back to the District from a County program, or asks for a different placement, the Director of Student Services will evaluate each circumstance on an individual basis.



Santa Clara COE/Milpitas USD Plan for Expelled Youth

Education Code Section 48916.1

- (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion, but only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

Education Code 48926

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school district, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than May 1, 2018, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30 thereafter.



Student Services/Special Education Department

1331 East Calaveras Boulevard, Milpitas, CA 95035

Carla Crenshaw, Director

408.635.2600 | extension 6007

408.635.2624 | Fax

www.musd.org

April 27th, 2021

Dear SCCOE,

At a meeting held on April 27th, 2021, the Milpitas Unified School District Board of Education approved the Three Year Expulsion Plan, which follows the Countywide Expulsion Plan developed by the Santa Clara County for the implementation of Education Code 48916.1

Attached:

April 27, 2021 Board Meeting Agenda and minutes

Overview: Milpitas Unified School District Plan

Educational Alternatives for Expelled Students

1. Current (2018-2021) Program Offerings, interventions, and administrative referrals or placements

a. Identify existing intervention programs

- MTSS District Work and Vision
 - District Leadership Team
- PBIS Framework
 - PBIS Leadership Team
 - 5 of 8 Elementary Schools implementing PBIS framework
- Peace Builder Practices
 - Spangler Elementary implements
 - Thomas Russell Middle School implements
- Restorative Justice
 - Calaveras Hills High school uses Circle up strategies
 - Calaveras Hills staff has had training
- Mindfulness Practices
 - Rose, Sinnott, Weller, and Calaveras Hills have had staff training
 - Rose & Weller have shared Mindfulness with students
- Trauma Informed Training
 - Rose, Sinnott, Weller, Cal Hills, MHS, and Elmwood Correctional (Adult Ed)
 - Kognitio Training (district-wide)
- Summary of services. MUSD continues to offer the interventions listed above. Each has been met with success in preventing students from moving toward expulsion. Trauma informed Training, in particular, is a current practice that is seeing success in teachers/educators understanding the life circumstances students bring with them to class, and specific strategies they can employ to respond in a way that doesn't lead to escalation of behavior or dismissal from class. In addition, Kognitio is being offered district-wide to help educators identify signs of SEL or behavioral patterns that may require support and intervention.

2. Milpitas Unified offers the following option for expelled youth, depending on specific offense and Education Code violation:

- a. Expulsion, suspended order, with placements on the same school campus, Education Code 48917 (a)

- b. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a)
- c. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.
- d. Expulsion with home instruction for students if required who receive Special Education.
- e. Expulsion with placement in an NPS if required due to Special Education.

3. Identify gaps and strategies in educational services to expelled youth in the previous plan. (2018-2021)

- a. It is extremely hard for MUSD students to attend the County Community School Program due to the distance. If a student can't get to that location, they are in a difficult position.
 - i. Our strategy was to work with local districts to share students who need a "fresh" start.
- b. The District recognizes that African-American males have been suspended and expelled more often than other student subgroups.
 - i. Our strategy was to explore Restorative Justice options for MUSD.

4. Existing gaps and strategies in our current plan and strategies outlined for filling those service gaps. (2021-2024)

- a. Options for elementary expelled students are very limited as the SCCOE program only serves grades 7-12.
 - i. The first option is to find one alternative placement at one of the 10 elementary schools in our district.
 - ii. Our strategy to address this gap is that MUSD will collaborate with neighboring districts to consider placement outside MUSD.
- b. MUSD no longer has the option to move students to our Community Day School as that school was closed.
 - iii. Our strategy to address this gap is that MUSD will collaborate with nearby High School or Unified School District to consider a partnership for placement outside MUSD.

c. It is extremely hard for MUSD students to attend the Sunol Program due to the distance. If a student can't get to that location, they are in a difficult position.

iv. Our strategy will be to work with local districts to share students who need a "fresh" start.

d. The District recognizes that African-American & Latino males have been suspended & expelled more often than other student subgroups.

v. Our strategy will be to expand Restorative Justice options for MUSD and expand PBIS efforts in MUSD and options to strengthen Tier I School Climate practices.

vi. Another strategy relates to our instructional practices which include culturally responsive teaching practices and addressing unconscious bias over time.

5. Identify alternative placements for pupils who are expelled and placed in the district (if your district has) community day school programs but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

a. MUSD does not currently offer a Community Day School Program.

b. MUSD will refer the student to an appropriate educational setting, and ensure that an educational program is provided either within or outside the school district.

c. There could be consideration to have the student attend another site in the district and if of age, the district's Continuation High School.

6. Plan for Expelled Students who commit subsequent violations

a. The district will look into other SCCOE options, such alternatives might include placement at the County Community School, the Independent Study Program in the County Community School,

b. Additionally, the District may look voluntary placement at other program options in the County or in partner districts

Santa Clara County Office of Education

The Santa Clara County Office of Education offers educational alternatives to expelled students through court and community schools. Court schools require the formal placement of students into the program by the juvenile court or its probation/parole department representatives. These programs can be either residential or non-residential and the expulsion status of a student has no negative impact on eligibility or placement. Community school enrollment may require a referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c). School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program, blended learning, and or Independent Study through an intervention process to include but not limited to: Student Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Court Schools* (*Placement by non-education agency may be required*)

Osborne

Blue Ridge

Community Schools

Sunol (one location) grades 6-12

Independent Study 6-12

** Placement by non-education agency may be required*

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of the California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts, and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, has created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational

services to expelled students, 3) strategies for filling those gaps, and 4) alternative placements for students who fail community day school placements (if offered in your district).

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of the offense, and grade level of the student all have the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior, or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-5, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 6-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives, and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

GAPS IN EDUCATIONAL SERVICES TO EXPELLED STUDENTS AND STRATEGIES FOR FILLING THOSE GAPS

The gaps identified in 2021 in educational services to expelled students remain a focus for Santa Clara County. We continue to work with staff, districts, students, and families to mitigate their impact.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings

2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

3. Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 6-12. Students in grades K-5 are expelled at a much lower rate than students in grades 6-12. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational

placement for the expelled student who is in grades K-5. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access educational opportunities because of a lack of finances. Funding for community schools requires that the Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO FAIL COMMUNITY DAY SCHOOL PLACEMENTS

The court and community school programs operated by the Santa Clara County Office of Education maintains the commitment of accepting most students who have been expelled from their district of residence and who have exhausted all of the alternatives offered by the district. If an initial placement is made to a district operated community day school and the student commits an expellable offense or fails the program, the “District Name” School District Board of Education shall review the plan of rehabilitation that was established at the time of expulsion and make the adjustments necessary. If there is no educational alternative in the “District Name” School District, the student may be referred to the county community school program.

For students in the Santa Clara County community schools who have re-committed an expellable offense, the Santa Clara County Office of Education works closely with the district, probation, families, and school officials to determine the next phase of support. Options are limited to Independent Study, modified curriculum and school day, and/or incarceration. If all of these options are exhausted an expelled student may be referred back to their home district to explore additional options. Additionally, the Santa Clara County Office of Education is developing a hybrid alternative blended learning/independent study program for the 2018-19 school year which will combine multiple resources and options for students, based on their individual learning plan.

ASSOCIATED BOARD POLICY

Milpitas Unified Board Policies that are specific to expelled youth.

[Milpitas USD](#) | BP 5144.1 Students

Suspension And Expulsion/Due Process

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. [5131](#) - Conduct)

(cf. [5131.1](#) - Bus Conduct)

(cf. [5131.2](#) - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following:
(Education Code [48900](#)(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. [5112.5](#) - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code [48900](#)(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or

when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#), [48900.6](#))

(cf. 1020 - Youth Services)

(cf. [5138](#) - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

(cf. [6142.4](#) - Service Learning/Community Service Classes)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. [6164.5](#) - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-3 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code [48910](#). (Education Code [48900](#))

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. [5113](#) - Absences and Excuses)

(cf. [5113.1](#) - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code [48900](#) and [48900.2](#), but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

Authority to Expel

A student may be expelled only by the Board. (Education Code [48918\(j\)](#))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code [48915](#))

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person

4. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)
5. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)
6. Possessing an explosive as defined in 18 USC [921](#)

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code [48915](#)(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code [48917](#))

No student shall be expelled for disruption or willful defiance. (Education Code [48900](#))

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The

Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code [48911](#), [48915](#), [48915.5](#), [48918](#))

(cf. 5119 - Students Expelled from Other Districts)

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code [48900.8](#) and [48916.1](#), including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment
233 Hate violence
1981-1981.5 Enrollment of students in community school
17292.5 Program for expelled students
32261 Interagency School Safety Demonstration Act of 1985
35145 Open board meetings
35146 Closed sessions (regarding suspensions)
35291 Rules (for government and discipline of schools)
35291.5 Rules and procedures on school discipline
48645.5 Readmission; contact with juvenile justice system
48660-48666 Community day schools
48853.5 Foster youth
48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parental notifications
49073-49079 Privacy of student records
52052 Numerically significant student subgroups
52060-52077 Local control and accountability plan

CIVIL CODE

47 Privileged communication
48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt
54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia
11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<https://www2.ed.gov/about/offices/list/oese/oshs>

Policy MILPITAS UNIFIED SCHOOL DISTRICT

adopted: June 23, 2015 Milpitas, California

revised: February 13, 2018

Suspension And Expulsion/Due Process

Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes.

However, suspension does not mean any of the following: (Education Code [48925](#))

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code [48910](#). Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code [48925](#))

Day means a calendar day unless otherwise specifically provided. (Education Code [48925](#))

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code [48925](#))

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code [48911](#))

School property, for the purposes described in Education Code [48900](#), includes, but is not limited to, electronic files and databases. (Education Code [48900\(u\)](#))

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code [35291](#), [48900.1](#), [48980](#))

(cf. [5144](#) - Discipline)

(cf. [5145.6](#) - Parental Notifications)

Grounds for Suspension and Expulsion

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code [48900](#)(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code [48900](#)(b))

(cf. [5131](#) - Conduct)

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind (Education Code [48900](#)(c))

(cf. [5131.6](#) - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code [48900](#)(d))
5. Committed or attempted to commit robbery or extortion (Education Code [48900](#)(e))
6. Caused or attempted to cause damage to school property or private property (Education Code [48900](#)(f))
7. Stole or attempted to steal school property or private property (Education Code [48900](#)(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code [48900](#)(h))

(cf. [5131.62](#) - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code [48900](#)(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code [11014.5](#) (Education Code [48900](#)(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code [48900](#)(k))

(cf. [5131.4](#) - Student Disturbances)

12. Knowingly received stolen school property or private property (Education Code [48900\(l\)](#))
13. Possessed an imitation firearm (Education Code [48900\(m\)](#))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code [48900\(m\)](#))

14. Committed or attempted to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committed a sexual battery as defined in Penal Code [243.4](#) (Education Code [48900\(n\)](#))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code [48900\(o\)](#))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code [48900\(p\)](#))
17. Engaged in, or attempted to engage in, hazing (Education Code [48900\(q\)](#))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events.

18. Engaged in an act of bullying (Education Code [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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code [48900.2](#), [48900.3](#), or 48900.4 (items #21-23 below), that has any of the effects described above on a reasonable student.

Electronic act means the creation or transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code [48900\(r\)](#))

(cf. [1114](#) - District-Sponsored Social Media)

(cf. [5131.2](#) - Bullying)

(cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)

(cf. [6164.6](#) - Identification and Education under Section 504)

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code [31](#). (Education Code [48900\(t\)](#))

20. Made terrorist threats against school officials and/or school property. (Education Code [48900.7](#))

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code [48900.7](#))

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

21. Committed sexual harassment as defined in Education Code [212.5](#) (Education Code [48900.2](#))

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code [212.5](#), [48900.2](#))

(cf. [5145.7](#) - Sexual Harassment)

22. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code [233](#) (Education Code [48900.3](#))

Hate violence means any act punishable under Penal Code [422.6](#), [422.7](#), or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code [233](#); Penal Code [422.55](#))

(cf. [5145.9](#) - Hate-Motivated Behavior)

23. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code [48900.4](#))

(cf. [5145.3](#) - Nondiscrimination/Harassment)

Removal from Class by a Teacher and Parental Attendance

A teacher may remove a student from his/her class for the remainder of the day and the following day only for acts specified in Education Code [48900](#) and listed under "Grounds for Suspension and Expulsion" above. (Education Code [48910](#))

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that

action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code [48910](#))

As soon as possible after the teacher decides to remove the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code [48910](#))

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal or designee. (Education Code [48910](#))

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code [48913](#))

Suspension by Superintendent, Principal, or Designee

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code [48915\(c\)](#))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code [48915\(g\)](#)
3. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)
4. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)
5. Possessing an explosive as defined in 18 USC [921](#)

In addition, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons. (Education Code [48900.5](#))

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code [48900.5](#))

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code [48900.5](#))

(cf. [5125](#) - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code [48911](#))

A student may be suspended from school for not more than 20 school days in any school year. However, when a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student

is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code [48903](#), [48911](#), [48912](#))

(cf. [6184](#) - Continuing Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code [48911](#))

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code [48911](#))

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code [48911](#))

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code [48911](#))
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code [48911](#))

This notice shall state the specific offense committed by the student. (Education Code [48900.8](#))

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code [48914](#))

Although the parent/guardian is required to respond without delay to a request for a conference about his/her child's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code [48911](#))

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code [48911](#))

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code [48911](#))

If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code [48853.5](#), [48911](#), [48918.1](#))

(cf. [6173.1](#) - Education for Foster Youth)

In addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code [48912](#))

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed under "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code [48915](#). (Education Code [48912.5](#))

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code [49073-49079](#). (Education Code [35146](#), [48912](#))

(cf. [9321](#) - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code [35146](#), [48912](#))

Supervised Suspension Classroom

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code [48911.1](#))

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.

3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code [48911.1](#))

Authority to Expel

A student may be expelled only by the Board. (Education Code [48918\(j\)](#))

The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code [48915](#))

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled, upon the recommendation of the Superintendent, principal, or designee, only if the Board makes a finding of either or both of the following: (Education Code [48915\(b\)](#) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

Superintendent, Principal, or Designee's Authority to Recommend Expulsion

Unless the Superintendent, principal, or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code [48915\(a\)](#))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code [48915\(g\)](#) or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code [11053-11058](#), except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code [240](#) and [242](#), upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code [48915](#))

Mandatory Recommendation and Mandatory Expulsion

The Superintendent, principal, or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code [48915\(c\)](#))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence

However, possession of an imitation firearm, as defined in Education Code [48900\(m\)](#), shall not be regarded as an offense requiring a mandatory recommendation for expulsion and mandatory expulsion.

2. Brandishing a knife as defined in Education Code [48915\(g\)](#) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)
4. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)
5. Possessing an explosive as defined in 18 USC [921](#)

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code [48915](#))

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed one of the acts listed above under "Grounds for Suspension and Expulsion." (Education Code [48918\(a\)](#))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code [48918\(a\)](#))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code [48918\(a\)](#))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code [48925](#). Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code [48918\(a\)](#))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code [48918\(a\)](#))

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code [48918.5](#))

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's

suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code [48918.5](#))

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code [48918.5](#))

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code [48900.8](#), [48918\(b\)](#))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code [48915.1](#), to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code [48915\(a\)](#) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth

At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code [48853.5](#) should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may

provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code [48918.1](#))

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code [54953](#) and Education Code [35145](#), the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code [48918\(c\)](#))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code [48918\(c\)](#))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code [48918\(c\)](#))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code [48918\(g\)](#))
3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure [1985-1985.2](#) and enforced in accordance with Government Code [11455.20](#). (Education Code [48918\(i\)](#))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code [48918\(i\)](#))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code [48918\(i\)](#))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code [48900](#) and listed in "Grounds for Suspension and Expulsion" above. (Education Code [48918\(h\)](#))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code [48918\(f\)](#))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code [48918](#), [48918.5](#))
 - a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code [868.5](#).
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
 - (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code [48918\(a\)](#))

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board at a public meeting. (Education Code [48918\(j\)](#))

(cf. [9321.1](#) - Closed Session Actions and Reports)

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code [48916](#))

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code [48916](#))

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code [48916.5](#))

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion" (Education Code [48900.8](#))
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code [48916](#))
3. Notice of the right to appeal the expulsion to the County Board (Education Code [48918](#))
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code [48918](#))
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code [48915.1](#) (Education Code [48918](#))

Decision Not to Enforce Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code [48917](#))
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code [48917](#))
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code [48917](#))
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code [48917](#))
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code [48917](#))
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code [48915.1\(b\)](#). (Education Code [48918\(j\)](#))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code [48917](#))

Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code [48919](#))

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The

district shall provide the student with these documents within 10 school days following the student's written request. (Education Code [48919](#))

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code [245](#). (Education Code [48902](#))

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students regarding the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code [48915\(c\)\(1\)](#) or (5) or Penal Code [626.9](#) and [626.10](#). (Education Code [48902](#))

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code [48900\(c\)](#) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code [48902](#))

Post-Expulsion Placements

The Board shall refer expelled students to a program of study that is: (Education Code [48915](#), [48915.01](#))

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Not housed at the school site attended by the student at the time of suspension

(cf. [6158](#) - Independent Study)

(cf. [6185](#) - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #21-23 under "Grounds for Suspension and Expulsion" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code [48915](#))

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code [48916.1](#))

Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code [48916](#))
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code [49073-49079](#). If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code [48916](#))
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code [48916](#))
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code [48916](#))

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code [48645.5](#))

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code [48900.8](#))

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code [48918\(k\)](#))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code [48915.1](#))

(cf. 5119 - Students Expelled from Other Districts)

Regulation MILPITAS UNIFIED SCHOOL DISTRICT

approved: June 23, 2015 Milpitas, California

Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC [1400-1482](#), is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR [300.536](#). (Education Code [48903](#); 34 CFR [300.530](#))

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. [6159](#) - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR [300.536](#))

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.

- b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
- c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC [1412\(a\)\(1\)\(A\)](#); 34 CFR [300.530](#))

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code [48915.5](#))

(cf. [3541.2](#) - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.530](#))

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.531](#))

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

(cf. [5145.6](#) - Parental Notifications)

(cf. [6159.1](#) - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

(cf. [6159.4](#) - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

(cf. [6158](#) - Independent Study)

(cf. 6185 - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR [300.530](#) (suspension and removal for dangerous circumstances) or 34 CFR [300.531](#) (interim alternative placement), or the manifestation determination under 34 CFR [300.530\(e\)](#), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR [300.507](#) and [300.508\(a\)](#) and (b). (20 USC [1415\(k\)\(3\)](#); 34 CFR [300.532](#))

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR [300.507](#), [300.508\(a\)-\(c\)](#), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR [300.532](#) as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC [1415\(k\)\(4\)](#); 34 CFR [300.533](#))

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code [48917](#))

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Education Code [49076](#))

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code [48203](#))

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections

under IDEA, if the district had knowledge of the student's disability. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC [1414\(a\)\(1\)\(B\)](#) or 34 CFR [300.300-300.311](#).

(cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR [300.300-300.311](#), the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR [300.530](#), the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Legal Reference:

EDUCATION CODE

[35146](#) Closed sessions re: suspensions

[35291](#) Rules of governing board

[48203](#) Reports of severance of attendance of disabled students

[48900-48925](#) Suspension and expulsion

[49076](#) Access to student records

[56000](#) Special education; legislative findings and declarations

[56320](#) Educational needs; requirements

[56321](#) Development or revision of individualized education program

[56329](#) Independent educational assessment

[56340-56347](#) Individualized education program teams

[56505](#) State hearing

PENAL CODE

[245](#) Assault with deadly weapon

[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission

[626.9](#) Gun-Free School Zone Act

[626.10](#) Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

[1412](#) State eligibility

[1415](#) Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

[706](#) Definitions

[794](#) Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

[104.35](#) Evaluation and placement

[104.36](#) Procedural safeguards

[300.1-300.818](#) Assistance to states for the education of students with disabilities, especially:

[300.530-300.537](#) Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

Regulation MILPITAS UNIFIED SCHOOL DISTRICT

approved: June 23, 2015

Milpitas, California

Regular Board of Education Meeting - Closed Session 4:00 PM

Morgan Hill USD

May 18, 2021 6:00PM

ZOOM Topic: Board of Education Regular Meeting Time: May 18, 2021 5:00 PM

Closed Session 6:00 PM Open Session Join Zoom Meeting

<https://us02web.zoom.us/j/83834940007> Meeting ID: 838 3494 0007 One tap

mobile +16699009128,,83834940007# US (San Jose)

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9128 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US

(Tacoma) +1 646 558 8656 US (New York) +1 301 715 8

A. CALL TO ORDER

A.1. PUBLIC COMMENT ON CLOSED SESSION TOPICS

Rationale:

Members of the public may address the Board at this time regarding items on the Closed Session agenda. The Board of Education reserves the right to limit speaking time to three (3) minutes or less per individual.

A.2. ADJOURN TO CLOSED SESSION (4:00 PM)

A.3. PUPIL PERSONNEL - Student discipline Education Code §48918

(c)(K-12)

A.3.a. Recommendation for readmission of student R 20/21-004

Comments:

Submitted by:

Jessie Swift, Coordinator Student Services

Victoria Sorensen, Director Equity Programs

Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

A.4. LIABILITY CLAIMS - Governmental Code Section 54956.95

A.5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

- Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: two cases

A.6. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION -

Pursuant to subdivision (a) of Government Code §54956.9

A.6.a. EL 17/18-001 vs. Morgan Hill Unified School District Case No. 17CV319128

A.6.b. EL 20/21-001 vs. Morgan Hill Unified School District Case No. 20CV369396

A.6.c. Marc Lopes vs. Morgan Hill Unified School District Case No. HG21093409

A.7. CONFERENCE WITH LABOR NEGOTIATOR (Government Code § 54957.6) Morgan Hill Classified Employees Association (MHCEA) and Morgan Hill Federation of Teachers (MHFT), Designated representative: Fawn Myers / Morgan Hill Educational Leaders Association (MHELA), Unrepresented employees, Designated representative: Steve Betando, and Superintendent, Designated representative: Karen Rezendes, Lozano Smith

A.8. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government

Code §54956.8)

A.9. PUBLIC EMPLOYEE-DISCIPLINE / DISMISSAL / RELEASE / REASSIGNMENT / COMPLAINT (Government Code § 54957 and 54957.1)

A.10. PUBLIC EMPLOYEE APPOINTMENT (Government Code § 54957)

Title: Superintendent

A.11. PUBLIC EMPLOYMENT / PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code § 54957) Title: Superintendent

A.12. RECONVENE TO PUBLIC SESSION

B. CALL TO ORDER / PLEDGE OF ALLEGIANCE (6:00 PM)

C. INTRODUCTION OF BOARD MEMBERS AND STAFF (6:02 PM)

D. RECOGNITIONS / PRESENTATIONS (6:05 PM)

E. ADOPTION OF AGENDA (6:25 PM)

F. APPROVAL OF CONSENT CALENDAR (6:27 PM)

Rationale:

Items listed under CONSENT are considered to be routine by the Board of Education and will be enacted by one motion at this time. There will be no separate discussion of these items unless a board member or citizen so requests.

G. PUBLIC COMMENT / COMMUNICATIONS (6:30 PM)

Rationale:

*This is opportunity for communication regarding items **not** on the agenda. Members of the public may address the Board regarding items on the agenda immediately prior to their being discussed by the Board.*

H. COMMUNICATIONS (6:40 PM)

H.1. Closed Session Action Report (Government Code § 54957.1)

H.2. Report: Student Board Member

H.3. Reports: Superintendent / Staff

H.4. Reports: Employee Groups: Morgan Hill Classified Employee Association / Morgan Hill Federation of Teachers / Morgan Hill Educational Leaders Association

H.5. Reports: Board Members

H.6. Calendar: Upcoming events

I. CONSENT ITEMS

I.1. BUSINESS SERVICES

I.1.a. Adopt resolution for Committed Fund Balance per GASB 54 for Adult Education (Fund 11) and Deferred Maintenance (Fund 14) for Year Ending June 30, 2021

Rationale:

Fund 11, Adult Education, and Fund 14, Deferred Maintenance, were established to allow districts to account separately for state funding restricted for the Adult Education and Deferred Maintenance programs. Prior to implementation of the Local Control Funding Formula (LCFF), these funds met the definition of a special revenue fund. Since LCFF removed program restrictions and LCFF funding is

now available for any educational purposes, Fund 11 and 14 no longer meet the definition of a special revenue fund.

Per the Governmental Accounting Standards Board (GASB) Statement 54, districts may continue to use Fund 11 and 14, if formal action is taken, to commit the funds for the purposes for which they were originally intended. By passing this resolution, the Board is committing the fund balances in Fund 11 for the purpose of Adult Education and Fund 14 for the purpose of Deferred Maintenance. These funds may be uncommitted at any time by Board action.

Comments:

Submitted by:
 Lisa Lee, Interim Director Fiscal Services
 Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

210518 Resolution for Committed Fund Balance

I.1.b. Adopt resolution authorizing signing authority for the District

Rationale:

The Board of Education may delegate the authority to sign contracts and orders for payroll and vendor warrants. A copy of this resolution along with verified signatures of the individuals authorized to sign must be filed with the County Superintendent of Schools in accordance with Education Code 42633. This resolution restates and confirms the authority previously approved by the Board on May 5, 2020.

<u>Position</u>	<u>Accounts Payable</u>	<u>Payrol</u> <u>l</u>	<u>Contract</u> <u>s</u>
Superintendent	X	X	X
Deputy Superintendent, Chief Financial Officer	X	X	X
Assistant Superintendent Human Resources			X
Assistant Superintendent Educational Services			X
Director Fiscal Services	X	X	X
Supervisor Fiscal Services	X	X	

Comments:

Submitted by:
 Lisa Lee, Interim Director Fiscal Services
 Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

210518 Signing Authority Reso
 210518 2021-22 Authorized Signers

I.1.c. Approve bid award for Sobrato High School safety and security fencing project to 101 Builders

Rationale:

On September 15, 2017, the Board of Education approved the Series B preliminary project list. The interest from the \$80 million in proceeds from Series B was dedicated to Safety and Security. Ann Sobrato High School Security Fencing Project will provide six-foot ornamental fencing around main campus in order to maintain safety and security.

In accordance with public contract code, a bid notice was placed in a local newspaper (San Jose Post Record) for two consecutive weeks. Bids were received and opened on May 3, 2021. District Staff analyzed the bids for compliance and determined the lowest bidder who presented a responsive and responsible bid.

Staff requests approval to award of contract to 101 Builders for the total bid price of \$689,811. The price includes owner approved change order value allowance.

<u>Name</u>	<u>Bid</u>	<u>Rank</u>
101 Builders	\$689,811	1
Silicon Valley Fencing	\$705,562	2
Architectural Systems	\$737,789	3

Staff will bring the contract for ratification at a future Board meeting.

Financial Impact:

\$689,811 to be funded from Measure G, Series B bond proceeds

Comments:

Submitted by:
 Jackie Schaefer, Bond Program Director
 Kirsten Perez, Deputy Superintendent and Chief Financial Officer

I.1.d. Approve Memorandum of Understanding with Santa Clara County Office of Education for 2021-22 annual technical services

Rationale:

The Quintessential School Systems (QSS/QCC) application and software support services are necessary to support the District's human resources and business operations including budgeting, finance, and accounting functions. Santa Clara County Office of Education (SCCOE) also provides backup and disaster recovery for QSS/QCC hosted data and training for District employees on applications and software.

The network services are necessary to provide connectivity to SCCOE and the internet. Firewall and filtering hosted by SCCOE will allow MHUSD to leverage volume licensing for web filtering, reducing our costs by approximately fifty percent from our previous provider as well as provide enterprise level security to all systems and data on district internet.

The annual cost to provide services for Fiscal Services and Technology Support Services are as follows:

\$139,311.20	QSS services
\$15,000.00	Network access services 1-10 Gbps
\$9,375.00	Firewall/filtering 1-2 Gbps firewall and content filtering

Staff recommends approving Memorandum of Understanding with Santa Clara County Office of Education for 2021-22 Annual Technical Services.

Financial Impact:

.....
\$163,686.20 from the Unrestricted General Fund

Comments:

.....
Submitted by:
Brandon Coelho, Technology Coordinator
Lisa Lee, Interim Director Fiscal Services
Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

.....
210518 SCCOE MOU for Provision of Annual Technical Services FY21-22

I.1.e. Resolution to adopt categorical exemption for Nordstrom Elementary School administration building addition and modernization project

Rationale:

.....
The California Environmental Quality Act ("CEQA") statute, California Public Resources Code § 21000 et seq., codifies a statewide policy of environmental protection. In order to proceed with the work at Nordstrom Elementary School, the District needs to adopt the attached resolution and file the Notices of Exemption with Santa Clara County:

- Nordstrom Elementary School Administration Building Addition and Modernization Project - Categorical exemption. This project consists of minor renovations to the school's existing administration building and construction of an approximate 3,000-square foot addition to the building. § 15304 provides an exemption for "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees..." § 15314 provides an exemption for "minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms..."

Staff recommends adopting the Categorical Exemption for Nordstrom Elementary School Administration Building Addition and Modernization

Project.

Comments:

Submitted by:
Jackie Schaefer, Bond Program Director
Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

210518 Nordstrom Admin Addition Board Reso
210518 Nordstrom Admin NOE Appendix A

I.1.f. Approval of deferred maintenance and renovation project list

Rationale:

In October 2020, the Board participated in a series of study sessions on facilities. Staff presented a five-year plan for facilities projects which included \$21.2M designated for Renovation Projects

On May 4, 2020 Staff presented to the Board the four areas that support preserving core and infrastructure which were Fire Alarm Systems, HVAC, Roofing and Asphalt. Staff also presented the report and grading system by site which determined most critical projects.

Staff has analyzed the findings from the report and created the Project List document that prioritizes the projects that involve fire, life & safety and projects deemed most critical based on feedback from the Maintenance Department Staff. The projected total for completion of these projects is \$19.7M (\$21.2M with contingency and escalation). These projects would be completed over the next three years.

Staff recommends the Board approve the attached Project List. Once this list is approved, the Staff can begin designing and bidding the projects. Each project would be brought back to the Board to award the final contract prior to work commencing.

Financial Impact:

Approximately \$21.2M in Measure G funds.

Comments:

Submitted by:
Jackie Schaefer, Director Bond Program
Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

210518 Projects List

I.2. EDUCATIONAL SERVICES

I.2.a. Annual program self-evaluation report for California State Preschool Program CSPP-0575

Rationale:

The attached Program Self-Evaluation report for the 2020-21 school year fulfills a requirement of the California Department of Education, Child Development Division, for California State Preschool Programs.

Morgan Hill Unified School District has 3 classrooms of preschool children – one each at P.A. Walsh, Nordstrom and El Toro elementary schools. These programs serve eligible preschool aged children in the community based on family income requirements.

The contract for this program was approved by the Board on October 6, 2020. The Self-Evaluation is presented to the Board this evening, as required, for information only.

Comments:

Submitted by:
Victoria Sorensen, Director Equity Programs
Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

Attachments:

210518 CDE Preschool Self Evaluation

I.2.b. Report on Benchmark scores to meet the state's accountability

Rationale:

The California and Federal Departments of Education have allowed districts to use local benchmark assessments in lieu of the state's CAASPP assessments this spring. MHUSD has the NWEA MAP assessment that qualify and has exercised this option to focus on reopening and hybrid learning priorities. Districts that use local benchmarks are required to report scores to parents (completed by mass mailer at the end of April), provide the Governing Board with a report of summary and disaggregated local assessment results (the purpose of this agenda item) and report the scores in the School Accountability Report Cards (will happen next Fall).

Comments:

Submitted by:
Glen Webb, Director Curriculum, Instruction and Assessment
Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

Attachments:

210518 MAP Data Accountability Report

I.2.c. Approve amendment to Special Education contract bringing total contract amount to \$103,723.50

Rationale:

Morgan Autism Center - Contract for one student at NPS school. Adding transportation for May and June to existing contract	Original contract \$ 98,080.50
	Transportation \$2,643
	Total \$103,723.50

Financial Impact:

Approve Amended Special Education contract in the sum of \$103,723.50

Comments:

Submitted by:

Dr. Rebecca O'Brien, Director Special Education

Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

I.3. HUMAN RESOURCES

I.3.a. Approve personnel action to employ, re-employ, promote, reassign, accept resignation, accept retirement, and authorize related compensation

Rationale:

See attached.

Financial Impact:

Included in adopted budget.

Comments:

Submitted by:

Fawn Myers, Assistant Superintendent Human Resources

Attachments:

210518 Personnel Order

I.3.b. Approve Declaration of Need for fully qualified educators for the Morgan Hill Unified School District

Rationale:

The District makes every effort to employ fully credentialed teachers for all teaching positions. Occasionally, however, it is necessary to assign teachers to instruct in subjects that are not authorized by their current credential. The California Commission on Teacher Credentialing understands these needs and provides alternatives to districts that allow these assignments.

The California Code of Regulations, Title 5, requires that the Board of Education annually adopt a Declaration of Need for Fully Qualified Educators prior to the issuance of limited assignment permits and/or emergency permits for the upcoming school year. The Declaration must include the recruitment efforts the District has made to employ fully credentialed teachers and an estimate of the number of teachers that may need to be employed under the authorization of an emergency or limited assignment permit. This Declaration of Need is submitted to the Board for action in order to meet these legal requirements.

Morgan Hill Unified School District places a strong emphasis on recruiting fully credentialed teachers. To accomplish this, Human Resources posts vacancies on online platforms and with nearby universities' teacher preparation programs and career centers, attends recruitment fairs, and advertises in various professional publications. The District will continue to place emphasis on the recruitment and retention of highly qualified, fully credentialed teachers throughout the school year.

Finding fully qualified teachers in the high-need areas of special education, bilingual certification, mathematics, and science can be challenging since the current demand generally exceeds the supply of these credentials. Additionally, personnel changes sometimes occur during the school year due to a variety of statutory leaves which may increase the demand for fully qualified teachers when the mid-year supply of fully credentialed teachers is at its lowest. Adoption of a Declaration of Need is required prior to the issuance of any emergency or limited assignment permit and is submitted annually every June to the Santa Clara County Office of Education and to the Commission on Teacher Credentialing in the event that any of the District's staffing assignments throughout the upcoming year require the issuance of a limited or emergency permit.

The Commission on Teacher Credentialing requires the Board of Education to take action to approve the Declaration of Need in an open session of a regularly scheduled board meeting. Upon approval, the necessary documents will then be timely filed with the appropriate agencies.

Comments:

Submitted by:
Fawn Myers, Assistant Superintendent Human Resources

Attachments:

210518 Declaration of Need 2021-22

I.4. SUPERINTENDENT

I.4.a. Approve the minutes from Special Board meeting of January 29, 2021

Comments:

Submitted By:
Steve Betando, Superinendent

Attachments:

210518 Special Meeting Minutes January 29, 2021

I.4.b. Approve the minutes from the Special Board meeting of January 30, 2021

Comments:

Submitted By:
Steve Betando, Superinendent

Attachments:

210518 Special Meeting Minutes January 30, 2021

I.4.c. Approve the minutes from the Regular Board meeting of May 4, 2021

Comments:

Submitted By:
Steve Betando, Superinendent

Attachments:

210518 Meeting Minutes May 4, 2021

I.4.d. Approve Resolution on Mental Health Awareness Month

Rationale:

Each year millions of Americans face the reality of living with a mental illness — a challenge that has been exponentially exacerbated by the isolation and extreme stress many have dealt with in the past year as a result of the pandemic and precautions taken to slow the spread of the virus. As a district, we are prioritizing meeting the social-emotional and mental health needs of our students and are committed to bringing awareness to mental health as we continue our transition to in-person instruction.

Comments:

Submitted By:
Ivan Rosales Montes, Trustee

Attachments:

210518 Mental Health Awareness Month Reso

J. GENERAL BUSINESS - PUBLIC SESSION ITEMS FOR BOARD DISCUSSION

J.1. Public hearing to ratify tentative agreement between the Morgan Hill Unified School District and the Morgan Hill Educational Leaders Association effective July 1, 2021 – June 30, 2024 (7:00 PM)

Rationale:

Public Hearing/Action:

The Morgan Hill Educational Leaders Association and the District have met and conferred on topics of interest related to compensation and working conditions. On April 30, 2021, they reached agreement on the following:

- Effective July 1, 2021, the 2020-21 Administration Salary Schedule increases by 7.5%.
- Amend language in the agreement related to parity of settlements with other employee groups, whereby MHELA leadership can request reopening of the meet and confer process if the ongoing economic improvements of another group's settlement (separate from any concessions made during that group's bargaining) exceed the ongoing economic improvements offered by the District to MHELA.
- Add language to clarify when an employee's health and welfare benefits begin and end, related to the date of hire and date of separation, adding language about COBRA coverage.
- Eliminate language related to cash in lieu

In addition, the classification of Program Specialist was reviewed and

reclassified as Program Coordinator and three levels of Confidential executive assistants were collapsed into two levels.

After conducting the public hearing, staff recommends that the District ratify the agreement.

Financial Impact:

See attached AB1200

Comments:

Submitted by:
Kirsten Perez, Deputy Superintendent and Chief Financial Officer
Fawn Myers, Assistant Superintendent of Human Resources

Attachments:

210518 2021-2024 MHELA Agreement
210518 MHELA AB1200

J.2. Proposed 2021-22 adopted budget for the restricted non-general funds as reported in the Standardized Account Code Structure (SACS) report (7:05 PM)

Rationale:

The proposed adopted budget for the restricted non-general funds is being presented for review and discussion. Information included in these funds is based on the Governor's January budget proposal.

Attached is a summary description of each of the restricted non-general funds and a spreadsheet summarizing the budgeted amounts.

The proposed adopted budget report for all funds will be presented at the June 1, 2021 Board meeting as part of the public hearing prior to the Board's adoption of the District's 2021-22 budget on June 15, 2021.

Financial Impact:

Proposed budgets for the restricted non-general fund as reported in the SACS report

Comments:

Submitted by:
Lisa Lee, Interim Director Fiscal Services
Kirsten Perez, Deputy Superintendent and Chief Financial Officer

Attachments:

210518 2021-22 Adopted Budget Other Funds - Detailed Fund Summary Report
210518 2021-22 Adopted Budget Other Funds Narrative
210518 2021-22 Adopted Budget Other Funds SACS forms

J.3. Program updates: DIME and CTE (7:20 PM)

Rationale:

Updates on Dual Immersion (DIME) and college and career pathways (CTE) will be presented tonight. Alex Aasen, Principal of San Martin Environmental Science Academy and Dual Immersion School will provide an update on their dual language program and multicultural program. Victoria Sorensen will provide an update on CTE current pathways, CTE development, and student surveys on career interests.

Comments:

Submitted by:
Alex Aasen, Principal San Martin Gwinn Environmental Science Academy and Dual Immersion School
Victoria Sorensen, Director Equity Programs
Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

Attachments:

210518 DIME and CTE Program Updates

J.4. Approval of District’s three year plan for expelled youth (7:50 PM)

Rationale:

The attached plan describes the Morgan Hill Unified School District’s policy and procedures for ensuring that students expelled from the District have appropriate educational options during the term of expulsion. The information in this document reflects a triennial update of the 2018 plan and is formatted to respond to the requirements and recommendations put forth in by the California Department of Education.

Once approved, the District’s plan will be submitted to the Santa Clara County Office of Education. The SCCOE plan, which will incorporate the plans of all 32 school districts, will be submitted to the State Department of Education subsequent to approval by the County Board of Education.

Please note that this plan only addresses the District’s policies and procedures for providing educational services to students expelled from our District. It does not address the conditions under which a student would be recommended for expulsion from the District or the expulsion process itself.

Financial Impact:

Cost of 10 county-program allocations at \$10,000.00 each for a total of \$100,000 from LCFF Base funds

Comments:

Submitted by:
Jessie Swift, Coordinator Student Services
Victoria Sorensen, Director Equity Programs
Pilar Vazquez-Vialva, Assistant Superintendent Educational Services

Attachments:

210518 Three Year Expulsion Plan

J.5. Discussion and Consider Approval of New Superintendent Employment Agreement (8:10 PM)

Comments:

Submitted By:
Wendy Sullivan, Board President

J.6. Approve Board of Education schedule and agenda prep dates for 2021-22 (8:30 PM)

Comments:

Submitted by:
Steve Betando, Superintendent

Attachments:

210518 2021-22 BOE Schedule and Prep Dates PROPOSED

J.7. New business: future agenda items / recognitions (8:50 PM)

K. PUPIL DISCIPLINE (9:00 PM)

K.1. Approve Recommendation for readmission of student R 20/21-004

L. ADJOURNMENT (9:05 PM)

Rationale:

The next REGULAR meeting of the Board of Education is scheduled for Tuesday, June 1, 2021, with Open Session beginning at 6:00pm. The agenda will be available on the District's website by 5:00pm Friday, June 28, 2021.

Disability Information:

Special Accommodations: In compliance with the Americans with Disabilities Act, if you need special assistance to access the Board meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact Kelly Schriefer at 201-6001. Notification at least 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Board meeting. Documents provided to a majority of the Governing Board regarding an open session item in the agenda will be made available for public inspection in the District Office located at 15600 Concord Circle, Morgan Hill during normal business hours.

Published: May 14, 2021, 12:38 PM

Morgan Hill Unified School District

Three Year Expulsion Plan
Between the
Morgan Hill Unified District
and
The Santa Clara County Office of Education
2021-2023
For the implementation of Education Code 48916.1

Steve Betando, Superintendent

Pilar Vazquez-Vialva, Assistant Superintendent
Educational Services Division

Jessie Swift
Coordinator Student Services

Morgan Hill Unified School District Plan Educational Alternatives for Expelled Students

The following plan describes the Morgan Hill Unified School District's policy and procedures for ensuring that students expelled from the District have appropriate educational options during the term of expulsion. The information in this document reflects a triennial update of the 2018 plan, and is formatted to respond to the requirements and recommendations put forth by the California Department of Education.

Describe current program offerings, interventions, and administrative referrals or placements.

The Morgan Hill Unified School District (MHUSD) implemented and practices a Multi-Tiered System of Support (MTSS) for prevention and early intervention related to student conduct that could potentially lead to expulsion.

All schools in the District have been or are being trained in Positive Behavioral Intervention and Supports (PBIS). The PBIS coaching, technical assistance and support to site implementation teams are supported by the Student Services department.

MHUSD participates in a Santa Clara County initiative called School Linked Services (SLS) and Prevention Early Intervention (PEI). This initiative has helped the District develop a robust system of mental health services provided on campus by our community partners. The District's School Linked Services Coordinator serves as the point person for counseling referrals, manages enrollment in family-centered programs such as the Positive Parenting Program, links students and families to material resources such as food, clothing and school supplies and connects them with services such as low or no-cost health exams and immunizations.

The District partners with three local counseling agencies to provide a variety of mental health services to students: Community Solutions, Rebekah Children's Services and Discovery Counseling Center. Prevention and Early Intervention (PEI) Program (provided by Community Solutions and Rebekah) is an evidence-based program that incorporates skill-building for students and families to promote a positive connection to school and to foster academic success that is provided at all sites. In addition, these community based organizations (CBOs) also provide counseling programs to middle and high school aged students in our schools with high poverty rates. Discovery Counseling provides Marriage and Family Therapist interns and trainees to every campus in the District for individual and group counseling support. Also, we have partnered with the South County Youth Task Force and are able to offer a variety of services including restorative justice support/training, mentorship, wrap services and parent supports.

Because of the extreme cost of housing, Morgan Hill has a high rate of students experiencing homelessness as defined by the McKinney-Vento Act. The District has

developed a team of certificated and classified employees to provide direct service to homeless, foster, and low income students in grades 6 - 12. The Coordinated Advocacy and Resources for Education (CARE) team members work directly with students and families to connect them with resources and services, as well as provide academic counseling, mentoring and basic behavioral coaching to help students meet their goals.

The District has built capacity in restorative practices and restorative justice (RJ) as part of our MTSS focus. School administrators incorporate these into their PBIS implementation. Staff members have received training in restorative circles and have been able to bring this practice to their school site. We will continue to expand on restorative training for all staff and students.

As part of our trauma-informed practice, we are in our third year of implementation of Kognito, a trauma-informed practices platform that provides simulations around suicide prevention, de-escalation, and trauma sensitive issues. In addition, all certificated staff TK - 12 have engaged in professional development, led by professional trainers from one of our community partners.

The District participates in a collaborative group known as the South County Youth Task Force (SCYTF). In partnership between the cities of Morgan Hill and Gilroy, this group is comprised of representatives from the police department, school district, and city government, along with a wide variety of local youth-focused agencies such as the YMCA, juvenile probation, the faith community, gang-intervention specialists and the District Attorney's office. The SCYTF serves as a forum to identify students with a higher-risk and need for intervention and connects them with available resources that may not be a part of a standard school program.

MHUSD employs a full-time School Resource Officer (SRO) who is a member of NASRO (the National Association of School Resource Officers), trained in Restorative Justice and committed to a community policing philosophy that is predicated on positive relationships with students. The SRO often helps school staff intervene when student conduct poses a safety risk.

When a student is recommended for expulsion and goes through the due process, there are a range of placement options that the District considers, including:

- Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
- Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
- Expulsion with subsequent transfer to another district.
- Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.
- Elementary Schools- Identify a partner district that will accept expulsion referrals.

Identify gaps in educational services to expelled youth.

Mental Health and Transitional Supports

This year has been a year like no other due to the pandemic, and with that we have seen an influx of mental health needs from students and families.

Strategy: We have increased our CBO partnerships to include more mentorship opportunities for youth. All students who are readmitted to the district are assigned a CBO mentor depending on their needs. In addition, we have created a transition protocol for students who are being readmitted into the district. The district and the CBO partners are working to expand their contract language to allow for more fluid transition with existing clients. In addition, we have increased our home visit processes and protocols to reach out to families. Furthermore, we have expanded programs to help ensure that the family is also consulted and engaged in the process. We have increased articulation with County partners to have transition meetings/conversations when a new youth is coming to them, or a youth is being readmitted to the district.

Transportation

Transportation to alternative schools for expelled youth continues to be a challenge.

Strategy: Santa Clara County Office of Education's satellite campuses in Gilroy and San Jose have made it possible for students to access alternative programs with less transportation challenges. Students that couldn't access those campuses were served with the Distance Learning option for 2020-2021 due to the pandemic; without this option, some students will continue to have difficulty accessing alternative programs due to lack of transportation.

Costs for Program

Every school year, the District allocates funding to educate a student who may be recommended for expulsion. The cost of one student seat allocation in the County program has nearly tripled, so the number of alternative education seats that the District reserves annually has fluctuated between 5-15.

Strategy: In order to be proactive and allocate resources to provide an education and resources to a student that may be recommended for an expulsion, funds each year are allocated per seat and any remaining funds are not reimbursed to the District at the end of the school year.

Identify alternative placements for pupils who are expelled but fail to meet the terms of their rehabilitation plan.

A student who has been expelled from the District under Education Code 48900 or 48915 and who has failed to find success in a variety of placement options within the county-operated Community School programs is then referred back to the District's Department of Student Services.

The District will work with the County Office of Education to identify the best placement for the expelled student who has been dropped from a county program. A meeting with all stakeholders (parent, student, county staff, and the District) may be held to explore other alternatives such as:

- Placement in another county Community School or program
- Independent Study through a county Community School
- Placement in a probation-ordered educational program such as Edge
- Recommendation for a residential program such as Grizzly Youth Academy
- Recommendation for an employment-training program such as Job Corps
- A more restrictive educational placement in accordance with the student's IEP

Plan for Expelled Students who commit subsequent violations

Students who have been readmitted to the District after an expulsion return to regular student status. They can be assigned to a support program at their school of residence to assist in their transition from a community school to a comprehensive secondary school. If a student commits an expellable offense after readmission, and all alternative means of correction have been exhausted, the student may be referred for expulsion again.

Plan For Providing Educational Services To All Expelled Students In Santa Clara County

California Education Code Section 48926 states "each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county." This section of California Education Code also states that "The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to around 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2021 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion.

The educational placement will be determined on an individual basis by the school district’s governing board based on:

- 1) seriousness of the offense,
- 2) available educational alternatives
- 3) other related factors

County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made.

Each district sub-plan includes:

- 1) A list of existing educational services to expelled students
- 2) Gaps in educational services to expelled students
- 3) Strategies for filling those gaps and
- 4) Alternative placements for students who fail community day school placements (if offered in your district).

Existing Educational Alternatives for Expelled Students

All educational alternatives provided by California’s school districts are not available to all expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2).

All expelled students shall be referred to an educational placement that is:

- 1) Not provided at a comprehensive middle, junior or senior high school or any elementary school and
- 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915).

If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School (if available)
- Independent Study Program (if student/family agrees)

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Countywide Identified Gaps

Difficulty offering a range of alternative programs due to district size.

The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts.

Strategy: The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural, often isolated settings.

Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement.

Strategy: We address this challenge by committing to provide educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at defusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 7-12.

Students in grades K-5 are expelled at a much lower rate than students in grades 6-12 and therefore there aren't many educational options available. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6.

Strategy: To address this problem, a cooperative plan is developed for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-5 services in county community schools is a barrier. It is important to work with the California Department of Education to increase funding to establish and maintain an educational alternative for expelled students in grades K-5.

Transportation and funding continue to be gaps for our countywide Expelled Students Plan.

Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires the Santa Clara County Office of Education operate on a chargeback system to our participating districts.

Strategy: To ensure that a community school program is being provided, the allotments have increased significantly to allow proper staffing at the community school to serve expelled youth. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

Districts continue to focus on disproportionate representation of minority students in interventions.

Strategy: School and district administration, along with teachers at MHUSD, have had opportunities to attend and facilitate Equity and inclusion professional development to ensure culturally responsive campuses. We have allocated funds in our new Local Control and Accountability Plan to continue to work in this area.

Morgan Hill Unified Board Policies that are specific to expelled youth.

[Morgan Hill USD](#) | BP 5144.1 Students

Suspension And Expulsion/Due Process

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. [5131](#) - Conduct)

(cf. [5131.1](#) - Bus Conduct)

(cf. [5131.2](#) - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation. Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code [48900](#)(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. [5112.5](#) - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code [48900](#)(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#), [48900.6](#))

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal. Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. [5113](#) - Absences and Excuses)

(cf. [5113.1](#) - Chronic Absence and Truancy)

District staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code [48900](#) and [48900.2](#), but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

Authority to Expel

A student may be expelled only by the Board. (Education Code [48918\(j\)](#))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code [48915](#))

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (cf. [5131.7](#) - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm

3. Brandishing a knife at another person

4. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)

5. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)

6. Possessing an explosive as defined in 18 USC [921](#)

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code [48915\(b\)](#) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct

2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting. The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code [48917](#))

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code [48911](#), [48915](#), [48915.5](#), [48918](#))

(cf. [5119](#) - Students Expelled from Other Districts)

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code [48900.8](#) and [48916.1](#), including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

The report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parental notifications
49073-49079 Privacy of student records
52052 Numerically significant student subgroups
52060-52077 Local control and accountability plan
64000-64001 Consolidated application
CIVIL CODE
47 Privileged communication
48.8 Defamation liability
CODE OF CIVIL PROCEDURE
1985-1997 Subpoenas; means of production
GOVERNMENT CODE
11455.20 Contempt
54950-54963 Ralph M. Brown Act
HEALTH AND SAFETY CODE
11014.5 Drug paraphernalia
11053-11058 Standards and schedules
LABOR CODE
230.7 Employee time off to appear in school on behalf of a child
PENAL CODE
31 Principal of a crime, defined
240 Assault defined
241.2 Assault fines
242 Battery defined
243.2 Battery on school property
243.4 Sexual battery
245 Assault with deadly weapon
245.6 Hazing
261 Rape defined
266c Unlawful sexual intercourse
286 Sodomy defined
288 Lewd or lascivious acts with child under age 14
288a Oral copulation
289 Penetration of genital or anal openings
417.27 Laser pointers
422.55 Hate crime defined
422.6 Interference with exercise of civil rights
422.7 Aggravating factors for punishment
422.75 Enhanced penalties for hate crimes
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act of 1995
626.10 Dirks, daggers, knives, razors, or stun guns
868.5 Supporting person; attendance during testimony of witness
WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline,
January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil

Rights: <http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy

Students: <http://www2.ed.gov/about/offices/list/oese/oshs>

Policy MORGAN HILL UNIFIED SCHOOL DISTRICT

adopted: November 5, 2019 Morgan Hill, California

[Morgan Hill USD](#) | AR 5144.1 Students

Suspension And Expulsion/Due Process

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code [48925](#))

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level

2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code [48910](#)

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code [48925](#))

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code [35291](#), [48900.1](#), [48980](#))

(cf. [5144](#) - Discipline)

(cf. [5145.6](#) - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code [48900](#)(a) and (t))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code [48900](#)(b))

(cf. [5131](#) - Conduct)

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind (Education Code [48900](#)(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. [5131.6](#) - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code [48900](#)(d))

5. Committed or attempted to commit robbery or extortion (Education Code [48900](#)(e))

6. Caused or attempted to cause damage to school property or private property (Education Code [48900](#)(f))

7. Stole or attempted to steal school property or private property (Education Code [48900](#)(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not

prohibit a student from using or possessing his/her own prescription products (Education Code [48900\(h\)](#))

(cf. [5131.62](#) - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code [48900\(i\)](#))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code [11014.5](#) (Education Code [48900\(j\)](#))

11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code [48900\(k\)](#)) Pursuant to Education Code [48900\(k\)](#), except as otherwise provided in Education Code [48910](#), students in grades K-3 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds.

(cf. [5131.4](#) - Student Disturbances)

12. Knowingly received stolen school property or private property (Education Code [48900\(l\)](#))

13. Possessed an imitation firearm (Education Code [48900\(m\)](#))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code [48900\(m\)](#))

14. Committed or attempted to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committed a sexual battery as defined in Penal Code [243.4](#) (Education Code [48900\(n\)](#))

15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code [48900\(o\)](#))

16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code [48900\(p\)](#))

17. Engaged in, or attempted to engage in, hazing (Education Code [48900\(q\)](#))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events.

(Education Code [48900\(q\)](#))

18. Engaged in an act of bullying (Education Code [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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her

academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code [48900\(r\)](#))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code [48900.2](#), [48900.3](#), or 48900.4 and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code [48900\(r\)](#))

a. A message, text, sound, video, or image

b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code [48900\(r\)](#))

(cf. 1114 - District-Sponsored Social Media)

(cf. [5131.2](#) - Bullying)

(cf. [6163.4](#) - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. [6164.6](#) - Identification and Education under Section 504)

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code [31](#) (Education Code [48900\(t\)](#))

20. Made terrorist threats against school officials and/or school property (Education Code [48900.7](#))

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code [48900.7](#))

Additional Grounds for Suspension and Expulsion: Grades 4-12

Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code [48900\(k\)](#))

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that he/she:

1. Committed sexual harassment as defined in Education Code [212.5](#) (Education Code [48900.2](#))

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code [212.5](#), [48900.2](#))

(cf. [5145.7](#) - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code [233](#) (Education Code [48900.3](#))

Hate violence means any act punishable under Penal Code [422.6](#), [422.7](#), or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code [233](#); Penal Code [422.55](#))

(cf. [5145.9](#) - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code [48900.4](#))

(cf. [5145.3](#) - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code [48900](#) and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code [48910](#))

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code [48910](#))

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code [48910](#))

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code [48910](#))

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may

continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code [48910](#))

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code [48913](#))

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code [48915\(c\)](#))

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code [48900.5](#))

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code [48900.5](#))

(cf. [5125](#) - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code [48911](#))

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code [48903](#), [48911](#), [48912](#))

(cf. [6184](#) - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code [48911](#))

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the

principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code [48900.5](#), and the evidence against him/her, and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code [48911](#))

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code [48911](#))

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code [48911](#))

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code [48911](#))

This notice shall state the specific offense committed by the student. (Education Code [48900.8](#))

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code [48914](#))

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code [48911](#))

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code [48911](#))

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's

presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code [48911](#))

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting.

(Education Code [48853.5](#), [48911](#), [48918.1](#))

(cf. [6173.1](#) - Education for Foster Youth)

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code [48918.1](#))

(cf. [6173](#) - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code [48912](#))

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code [48915](#). (Education Code [48912.5](#))

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code [49073-49079](#). (Education Code [35146](#), [48912](#))

(cf. [9321](#) - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code [35146](#), [48912](#))

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code [48911.1](#))

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code [48911.1](#))

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code [48915](#))

1. Causing serious physical injury to another person, except in self-defense
 2. Possession of any knife or other dangerous object of no reasonable use to the student
 3. Unlawful possession of any controlled substance as listed in Health and Safety Code [11053-11058](#), except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
 4. Robbery or extortion
 5. Assault or battery, as defined in Penal Code [240](#) and [242](#), upon any school employee
- In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code [48915](#))

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code [48918\(a\)](#))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code [48918\(a\)](#))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code [48918\(a\)](#))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code [48925](#). Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code [48918\(a\)](#))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code [48918\(a\)](#))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code [48918](#).

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel. A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code [48918.5](#))

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code [48918.5](#))

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code [48918.5](#))

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code [48900.8](#), [48918\(b\)](#))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code [48915.1](#), to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code [48915\(a\)](#) or (c).

(cf. [5119](#) - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing

7. The opportunity to confront and question all witnesses who testify at the hearing

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code [48918.1](#))

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code [48918.1](#))

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code [48918.1](#))

Alternative Expulsion Hearing:

Administrative Panel

The Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code [48918](#))

A hearing conducted by administrative panel are as specified below in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code [48918\(a\)](#) and (d))

Conduct of Expulsion Hearing

1. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code [48918\(g\)](#))

2. Subpoenas: Before commencing a student expulsion hearing, the Administrative Panel may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Administrative Panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure [1985-1985.2](#) and enforced in accordance with Government Code [11455.20](#). (Education Code [48918\(i\)](#))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Administrative Panel. The Administrative Panel's decision in response to such an objection shall be final and binding. (Education Code [48918\(i\)](#))

If Administrative Panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code [48918\(i\)](#))

3. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Administrative Panel to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code [48900](#) and listed in "Grounds for Suspension and Expulsion" above.: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code [48918\(h\)](#))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code [48918\(f\)](#))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

4. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code [48918](#), [48918.5](#))

a. Any complaining witness shall be given five days' notice before being called to testify.

b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code [868.5](#).

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

- (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
- (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
- (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand

The Administrative Panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code [48918\(e\)](#)) If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code [48918\(f\)](#))

In accordance with Board policy, the Administrative Panel may recommend that the Board suspend the enforcement of the expulsion. If the Administrative Panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code [48917](#), [48918](#))

Final Action by the Board

Whether the expulsion hearing is conducted in an administrative panel hearing or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code [48918\(j\)](#))
(cf. [9321.1](#) - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion. Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section

"Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code [48916](#))

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code [48916](#))

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code [48916.5](#))

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code [48900.8](#))
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code [48916](#))
3. Notice of the right to appeal the expulsion to the County Board (Education Code [48918](#))
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code [48918](#))
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code [48915.1](#) (Education Code [48918](#))

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to

whether the student has satisfactorily completed the rehabilitation program. (Education Code [48917](#))

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code [48917](#))

3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code [48917](#))

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code [48917](#))

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code [48917](#))

6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code [48915.1\(b\)](#). (Education Code [48918\(j\)](#))

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code [48917](#))

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code [48919](#))

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code [48919](#))

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code [245](#). (Education Code [48902](#))

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code [48915\(c\)\(1\)](#) or (5) or Penal Code [626.9](#) and [626.10](#). (Education Code [48902](#))

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by

telephone or other appropriate means, of any student acts which may violate Education Code [48900](#)(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code [48902](#))

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code [48915](#), [48915.01](#))

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension (cf. [6158](#) - Independent Study)
(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code [48915](#))

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code [48916.1](#))

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code [48916](#))
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has

chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code [48916](#))

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code [48645.5](#))

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code [48900.8](#))

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code [48918\(k\)](#))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code [48915.1](#))

(cf. [5119](#) - Students Expelled from Other Districts)

Regulation MORGAN HILL UNIFIED SCHOOL DISTRICT

approved: March 29, 2019 Morgan Hill, California

[Morgan Hill USD](#) | AR 5144.2 Students

Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC [1400-1482](#), is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR [300.536](#). (Education Code [48903](#); 34 CFR [300.530](#))

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. [6159](#) - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR [300.536](#))

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.
 - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.

c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC [1412\(a\)\(1\)\(A\)](#); 34 CFR [300.530](#))

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code [48915.5](#)) (cf. [3541.2](#) - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.530](#))

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.531](#))

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

(cf. [5145.6](#) - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

a. Caused by or had a direct and substantial relationship to the student's disability

b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

(cf. [6158](#) - Independent Study)

(cf. 6185 - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR [300.530](#) (suspension and removal for dangerous circumstances) or 34 CFR [300.531](#) (interim alternative placement), or the manifestation determination under 34 CFR [300.530](#)(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR [300.507](#) and [300.508](#)(a) and (b). (20 USC [1415](#)(k)(3); 34 CFR [300.532](#))

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR [300.507](#), [300.508](#) (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR [300.532](#) as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC [1415](#)(k)(4); 34 CFR [300.533](#))

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code [48917](#))

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian.

(Education Code [49076](#))

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code [48203](#))

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC [1415](#)(k)(5); 34 CFR [300.534](#))

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.

2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC [1414\(a\)\(1\)\(B\)](#) or 34 CFR [300.300-300.311](#).

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR [300.300-300.311](#), the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR [300.530](#), the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Legal Reference:

EDUCATION CODE

[35146](#) Closed sessions re: suspensions

[35291](#) Rules of governing board

[48203](#) Reports of severance of attendance of disabled students

[48900-48925](#) Suspension and expulsion

[49076](#) Access to student records

[56000](#) Special education; legislative findings and declarations

[56320](#) Educational needs; requirements

[56321](#) Development or revision of individualized education program

[56329](#) Independent educational assessment

[56340-56347](#) Individualized education program teams

[56505](#) State hearing

PENAL CODE

[245](#) Assault with deadly weapon

[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission

[626.9](#) Gun-Free School Zone Act

[626.10](#) Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

[1412](#) State eligibility

[1415](#) Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

[706](#) Definitions

[794](#) Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

[104.35](#) Evaluation and placement

[104.36](#) Procedural safeguards

[300.1-300.818](#) Assistance to states for the education of students with disabilities, especially:

[300.530-300.537](#) Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

Regulation MORGAN HILL UNIFIED SCHOOL DISTRICT

approved: November 13, 2012 Morgan Hill, California

- 1. Update on Employee Recruitment and Retention (INFORMATIONAL)
- ▼ K. Announcements and Reports
 - 1. Board of Education and Student Board Member
- ▼ L. Minutes
 - 1. Approval of the Minutes of the Regular Session Meeting held April 29, 2021
- ▼ M. Approval of Consent Calendar
 - 1. Management Personnel Actions (ACTION)
 - 2. Certificated Personnel Actions (ACTION)
 - 3. Classified Personnel Actions (ACTION)
 - 4. Short-term Limited Services Agreements (ACTION) - None
 - 5. SJUSD Plan for Expelled Students 2021-2024 (2nd Reading) (ACTION)
 - 6. Amendment to Board Action taken on Master Contract with Pediatric Therapy Services DBA The Stepping Stones Group [NPA] (ACTION)
 - 7. Bid 4015C Waterproofing Associates, Inc. - Roofing (ACTION)
 - 8. Bid 4016C Waterproofing Associates, Inc. - Roofing (ACTION)
- ▼ N. Action, Information, and Discussion Items
 - 1. 2021-2022 Student Board Member and Alternate Student Board Member Candidate Selection (ACTION)
 - 2. Presentation: Update on San José Unified Responses to COVID-19 Pandemic (INFORMATIONAL)
- O. Closed Session Report
- ▼ P. Adjourn



San José
Unified
School District

Plan for Expelled Students
2021-2024
Education Codes 48916.1 and 48926

Nancy Albarrán, Superintendent
Jodi Lax, Associate Superintendent of Instruction

Developed by
STUDENT SERVICES DEPARTMENT

Dane Caldwell-Holden, Director
Michelle Reghitto, Manager, Student Services
Chris Carlay, Child Welfare and Attendance Counselor
Margarita Cuevas, Child Welfare and Attendance Counselor
Bernadette Ramirez, Child Welfare and Attendance Counselor
Sonia Vargas, Child Welfare and Attendance Counselor

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SAN JOSÉ UNIFIED SCHOOL DISTRICT PLAN FOR EXPELLED YOUTH

San José Unified School District (SJUSD) embraces the philosophy of providing intervention over suspension and using trauma-informed practices and Positive Behavior Interventions and Supports (PBIS) to reach out to our students and help them feel safe and supported in school. We partner with a variety of community agencies, Santa Clara County Office of Education (SCCOE), Department of Family and Children Services (DFCS) and County of Santa Clara Probation Department to create a robust Multi-Tiered System of Support that reaches all of our students, no matter their needs. SJUSD has lowered its suspension and expulsion rate, year over year, for the past 8+ years and continue to train staff to work with students and understand what triggers their behavior, what underlying circumstances could be impacting their ability to learn and offering supports that are tailored to their needs. Although we work diligently to retain all of our students, state Ed Code requires that certain behaviors must recommend expulsion. We continue to refine and update our policies to align to Ed Code and ensure our students are supported through this process.

County and District Alternative Placement Responsibilities

The San José Unified School District continues to maintain responsibility for developing a rehabilitation plan for every expelled student and ensuring that an educational program is provided either within or outside the school district.

Expelled students or students on suspended expulsions who fail to meet the terms and conditions of the district rehabilitation plan may be referred by the School Board to the Santa Clara County Office of Education Alternative Schools or may remain in their Independent Study placement, depending on the circumstances surrounding the plan.

For students referred to the County Office of Education (COE), an Individual Learning Plan will be developed with the students' parents and COE staff. Part of this plan may include a goal of returning to the school district of residence after the District expulsion term. If a student fails at the County-operated program, a joint meeting between the County, District, student and parent will be held to review placement options, including return to SJUSD

District Overview and Interventions

San José Unified School District is the largest K-12 school district in Santa Clara County, serving 28,000 students and families throughout the San Jose area. SJUSD has invested over ten years in the promotion of positive school climate and culture as a primary intervention and to ensure the best success for all of our students. SJUSD provides many early intervention strategies at the comprehensive and alternative school sites. The District provides intervention strategies for all grade levels, K-12, which include, but are not limited to:

Guidance	Discipline
Academic and emotional assessments After school activities Alternative school placements Conflict Resolution Student Success Team CWA Counselor services Gang prevention and intervention services Crisis Support Team Individual and group counseling Parent Education and Support meetings Parent Project Positive Behavior Intervention and Support (PBIS) Vocational Services at Silicon Valley Career Technical Education (SVCTE) center (10-12 th)	On-Campus Behavior Counseling On-Campus Behavior Contract On-Campus Suspension (Full day/Part day) Off-Campus Suspension Saturday School Expulsion Hearing

Although we attempt to work with every student to mitigate behaviors, there are students whose behavior violates California Education Code discipline sections and who are referred by the school site administrator for expulsion from school. When this occurs, the District Administrative Hearing Panel may recommend expulsion and a rehabilitation program to the Governing Board. Post-expulsion educational referrals are made by the Student Services Department and we actively partner with SCCOE to determine best next steps for students who are expelled.

District Existing Educational Alternatives for Expelled Youth

San José Unified School District offers the following options for expelled youth:

- Suspended expulsion with placement on the same school campus
- Suspended expulsion with placement on a different school campus within the District
- Suspended expulsion with placement in a district alternative program
- Expelled with placement at Liberty Independent Study Program
- Expelled with appropriate placement to the Santa Clara County Office of Education Alternative Schools

Alternative Options for SJUSD Students:

ELEMENTARY – Options

Home Study

Kindergarten through fifth grade: For families who choose to educate their own children at home

Parent is the primary instructor. Parent meets monthly with resource teacher.

MIDDLE SCHOOL – Options

Home Study

Sixth through Eighth grade: For families who choose to educate their own children at home

Parent is the primary instructor. Parent meets monthly with resource teacher.

Liberty Independent Study School

Sixth through Eighth grade. Independent studies is the primary instructional strategy This school is always a voluntary placement.

HIGH SCHOOL – Options

Liberty Independent Study School

Ninth through Twelfth grade. Independent studies is the primary instructional strategy. This school is always a voluntary placement. This program also allows students to accelerate credits earned and/or use a fifth year to complete graduation credits.

Middle College Program

Eleventh and twelfth grade. Located at San José City college, this school allows students to take “core” classes (English and Social Science) with SJUSD teachers and enroll in college courses, receiving college and high school credit concurrently.

Broadway High School

Eleventh and Twelfth grade. Broadway is a continuation high school serving credit deficient students from any of the six comprehensive high schools. The continuation model allows credit recovery and access to SVCTE (Silicon Valley Career Technical Education Center). This program also allows students to accelerate credits earned and/or use a fifth year to complete graduation credits.

District Gaps and Strategies in Education Services

Identified Gaps for SJUSD

1. Although our overall expulsion rate has declined year over year, SJUSD continues to educate its administrators about the proper use of expulsion and continues to train around using all interventions possible before considering expulsion whenever practicable. This has led to fewer recommendations for expulsion but continues to be a necessary training.

Santa Clara Unified School District

Three Year Expulsion Plan

2021-2024

Between the

Santa Clara Unified District

and

The Santa Clara County Office of Education

For the implementation of

California Education Code 48916.1

Board Approval Date



Santa Clara Unified School District Plan Educational Alternatives for Expelled Students

The Santa Clara Unified School District (SCUSD) will continue to implement PBIS and MTSS at our elementary schools and expand it to our secondary schools. SCUSD will continue to provide educational placements for expelled students. Several program options are available for consideration by SCUSD Board of Trustees when a student is expelled, depending upon the nature of the expellable offense. Placement recommendations are guided by input from the administrative hearing panels and Department of Student Services.

District Options

1. Suspended enforcement of expulsion with placement on original school campus
2. Suspended enforcement of expulsion with a placement on another comprehensive school campus.
 - a) SCUSD has four traditional middle schools and two comprehensive high schools
 - b) SCUSD partners with the Fremont Union High School District (FUHSD) for placement of some high school students who have been expelled with a suspended enforcement.
3. Suspended enforcement of expulsion with placement on a continuation or alternative school campus
 - c) New Valley High School (Continuation 10-12)
 - d) Wilson High School (Independent Study 9-12)
 - e) Santa Clara Community Day School (6-8 and 9-12)

County Options

1. Suspended expulsion with placement at Santa Clara County Community School, which offers 360 minutes of daily instruction.
2. Expulsion with placement at Santa Clara County Community School.

REINSTATEMENT PROCEDURES

Any time that a student is expelled, the student receives a rehabilitation plan that the student must follow in order to be considered for reinstatement following the terms of the expulsion. Such a plan might include conditions such as counseling, academic assistance, substance abuse intervention, or community service.

When students fail to follow rehabilitation plan during an expulsion term and are not eligible for reinstatement, they will continue to receive district assistance in finding an appropriate educational setting at our own Community Day School, county directed community school or county independent study program. They will receive a new target date for reinstatement and clarification of conditions for reinstatement.

SERVICE GAPS AND STRATEGIES

1. Students in grades K-6 who are expelled do not have the same educational options available as do expelled youth who are in grades seven through twelve, due to the limited number of students grades K-6 who are expelled. These younger students cannot attend the programs designated for middle and high school students.

Strategy: The Santa Clara Unified School District continues to work with representatives from Santa Clara County Office of Education as well as neighboring districts to consider collaborative programs for expelled K-6 students.

2. There exists a lack of appropriate placements for expelled Special Education students.

Strategy: The Santa Clara Unified School District will work with the Santa Clara County Office of Education to expand educational options for Special Education students.

Santa Clara County Office of Education

The Santa Clara County Office of Education offers educational alternatives to expelled students through court and community schools. Court schools require the formal placement of students into the program by the juvenile court or its probation/parole department representatives. These programs can be either residential or non-residential and expulsion status of a student has no negative impact on eligibility or placement. Community school enrollment may require referral from the school district of residence and these schools provide services to students in accordance with California Education Code 1981 (a) and 1981 (c).

School districts in Santa Clara County enter into a Memorandum of Understanding with the Santa Clara County Office of Education to provide educational programs with a chargeback formula. Expulsion status of a student has no negative impact on eligibility or placement of a student in community schools but may be used for classification purposes (California Education Code 1981). Students can be referred to the community school for a daily program, blended learning, and or Independent Study through an intervention process to include but not limited to: Student Attendance Review Team, Student Attendance Review Board, discipline meeting, or through the expulsion process.

Educational alternatives offered by the Santa Clara County Office of Education include the following:

Court Schools* (*Placement by non-education agency may be required*)

Osborne

Blue Ridge

Community Schools

Sunol (one location) grades 7-12

Independent Study 7-12

** Placement by non-education agency may be required*

PLAN FOR PROVIDING EDUCATIONAL SERVICES TO ALL EXPELLED STUDENTS IN SANTA CLARA COUNTY

California Education Code Section 48926 states “each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county.” This section of California Education Code also states that “The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2018 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion. The educational placement will be determined on an individual basis by the school district’s governing board based on 1) seriousness of the offense, 2) available educational alternatives and 3) other related factors. County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.”

Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made. Each district sub-plan includes 1) a list of existing educational services to expelled students, 2) gaps in educational services to expelled students, 3) strategies for filling those gaps and 4) alternative placements for students who fail community day school placements (if offered in your district).

EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

All educational alternatives provided by California's school districts are not available to all expelled students and most are not available to any expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2). All expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive middle, junior or senior high school or any elementary school and 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915). If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils in districts include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School
- Independent Study Program

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

GAPS IN EDUCATIONAL SERVICES TO EXPELLED STUDENTS AND STRATEGIES FOR FILLING THOSE GAPS

The gaps identified in 2018 in educational services to expelled students remain a focus for Santa Clara County. We continue to work with staff, districts, students and families to mitigate their impact.

1. The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts. The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural often isolated settings

In an effort to ease the enrollment process and to decrease the time it takes to enroll into the community school district patterns will provide a SCCOE enrollment form to referred students at the time of referral. Thereafter, the student and family will either contact the community school and or the community school transition office will make contact to set up an enrollment meeting. At the enrollment meeting the student will be enrolled into the community school and be provided their first level of academic support that may include but not limited to: academic assessments, welcome instructional assignments, meet with the principal and support staff, and receive their class schedule.

2. Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement. The strategy for addressing this problem is to maintain a commitment to providing educational services to students regardless of repeated offenses and to ensure that disproportionate representation doesn't occur when students exhaust resources.

One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at diffusing potentially volatile situations with students, and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

3. Students in grades K-6 who are expelled do not have the same educational options available as do their counterparts in grades 7-12. Students in grades K-6 are expelled at a much lower rate than students in grades 7-12. These two factors, together with the requirement that educational services for students in grades K-6 cannot be merged or combined with services to students in grades 7-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6. The strategy for addressing this problem is to develop a cooperative plan for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-6 services in county community schools is a barrier. It is important to work with the California Department of

Education to increase funding to establish and maintain an educational alternative for expelled students in grades K-6.

4. Transportation and funding continue to be gaps for our countywide Expelled Students Plan. Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires that Santa Clara County Office of Education to operate on a chargeback system to our participating districts. To ensure that a community school program is being provided the allotments have increased significantly to allow proper staffing at the community school to serves expelled youth. It is difficult to anticipate the need county wide and therefore, the allotments allows the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

The community school is being consolidated to one school site to ease the financial cost of the program and to ensure that there is a community school for the foreseeable future. Since the geographical area of the county is very large, traffic patterns are some of the most congested within the state, and the length of public transportation to the school site from our two largest feeder districts can vary from a couple minutes to well over an hour, the County Office of Education is exploring an early start and a late start to the school day to ease the transportation issues for students and offer more flexibility for school attendance. In addition, the referring school district will provide bus tokens to students for the first two weeks of school. Thereafter, COE and support providers will provide bus tokens to ensure that students have access to stable transportation.

5. Best practices identified by Santa Clara districts include the following practices:
 - Positive Behavior Interventions Support (PBIS)
 - Multi-tiered System of Support (MTSS)
 - Response to Intervention (RTI)
 - BEST Behavior Program
 - Opportunity Program
 - Coordination and implementation of multiple community resources, such as California Youth Outreach (CYO), Parents Helping Parents Project, drug and alcohol counseling, and job development
 - Community liaisons
 - Counselors, psychologist support
 - Character building programs
6. Districts continue to focus on disproportionate representation of minority students in interventions. Based on 2016-17 data, Latino male students represent 74% of our community schools population. In Santa Clara County, Latino males represent approximately 38% of the student population. Strategies to address this concern include differentiation, individualization, use of an equity lens in the planning and development of culturally relevant activities and ongoing professional development for staff to ensure employees are culturally sensitive and linguistically proficient.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO FAIL COMMUNITY DAY SCHOOL PLACEMENTS

The court and community school programs operated by the Santa Clara County Office of Education maintains commitment of accepting most students who have been expelled from their district of residence and who have exhausted all of the alternatives offered by the district. If an initial placement is made to a district operated community day school and the student commits and expellable offense or fails the program, the "District Name" School District Board of Education shall review the plan of rehabilitation that was established at the time of expulsion and make the adjustments necessary. If there is no educational alternative in the "District Name" School District, the student may be referred to the county community school program.

For students in the Santa Clara County community schools who have recommitted an expellable offense, the Santa Clara County Office of Education works closely with the district, probation, families and school officials to determine the next phase of support. Options are limited to Independent Study, modified curriculum and school day, and/or incarceration. If all of these options are exhausted an expelled student may be referred back to their home district to explore additional options. Additionally, the Santa Clara County Office of Education is developing a hybrid alternative blended learning/independent study program for 2018-19 school year which will combine multiple resources and options for students, based on their individual learning plan.

SUSPENSION AND EXPULSION/DUE PROCESS

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:**EDUCATION CODE**

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

Legal Reference: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

- 48900-48927 Suspension and expulsion
- 48950 Speech and other communication
- 48980 Parental notifications
- 49073-49079 Privacy of student records
- 52052 Numerically significant student subgroups
- 52060-52077 Local control and accountability plan
- 64000-64001 Consolidated application

CIVIL CODE

- 47 Privileged communication
- 48.8 Defamation liability

CODE OF CIVIL PROCEDURE

- 1985-1997 Subpoenas; means of production

GOVERNMENT CODE

- 11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

- 11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

- 230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

- 31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

PENAL CODE (continued)

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

Legal Reference continued: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops. Cal. Atty. Gen. 146 (2001)

80 Ops. Cal. Atty. Gen. 348 (1997)

80 Ops. Cal. Atty. Gen. 91 (1997)

80 Ops. Cal. Atty. Gen. 85 (1997)

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<http://www2.ed.gov/about/offices/list/osee/osh>

Policy

Adopted: February 13, 2014

Revised: May 12, 2016

Revised: April 12, 2018

Revised: January 10, 2019

Revised: June 11, 2020

SANTA CLARA UNIFIED SCHOOL DISTRICT

Santa Clara, CA

SUSPENSION AND EXPULSION/DUE PROCESS

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. *Hazing* does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 48900(r))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Additional Grounds for Suspension and Expulsion: Grades 9-12

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

Suspension from Class by a Teacher

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school

administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required (Education Code 48915(c))

The Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

- a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.
- b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

- c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12. Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent or principal shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication or other medication prescribed by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

1. Receive five days' notice of the scheduled testimony at the hearing
2. Have up to two adult support persons present at the hearing at the time the witness testifies
3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. **Closed Session:** Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12 "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- 5. Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
- a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.
 - (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. **Decision:** The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12. Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 9-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

6. **The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))**
7. **Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)**

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

Policy

SANTA CLARA UNIFIED SCHOOL DISTRICT

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