January 14, 2015

TO: Santa Clara County Board of Education
FROM: Anna Song, Chair, Policy Development Subcommittee
VIA: Jon R. Gundry, County Superintendent of Schools
SUBJECT: First Reading of Recommended Deleted Board Policy 5144.1

Associated Goals
GOAL 4: Improve organizational effectiveness and efficiency

Background
On December 10, 2014 the Policy Development Subcommittee met and recommended the deletion of the following Board Policy:

BP 5144.1 Suspension and Expulsion/Due Process
Recommend policy deletion as the current policy pertains to district practice and oversight and is not consistent with SCCOE practice which is covered in the updated AR 5144.1. Information from the current BP 5144.1 that is pertinent to county offices of education is contained in the updated BP 5144.

Fiscal Implications
The proposed deletion has no fiscal implications.
Santa Clara COE
Board Policy
Suspension And Expulsion/Due Process

BP 5144.1
Students

The Santa Clara County Board of Education has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

(cf. 5144 - Discipline)

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

(cf. 6145 - Extracurricular and Cocurricular Activities)

Except 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 County Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion shall be 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 self or others.

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

SCCOE students are not expelled from SCCOE programs but are referred back to district of residence.

Zero Tolerance

The County Board supports a zero tolerance approach to serious offenses in accordance with state and federal law. This approach makes the removal of potentially dangerous students from the classroom a top priority and ensures the standardized treatment of all students. Staff shall immediately report to the Santa Clara County Superintendent of Schools or designee any incidence of offenses specified in law, Board policy, and administrative regulation as cause for suspension or expulsion.
Student Due Process

The County 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 County Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and/or law. (Education Code 48911, 48915, 48915.5)

(cf. 5119 - Students Expelled from Other Districts)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities))

Supervised Suspension Classroom

The County Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours when they are off campus and may fall behind in the coursework. The County Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.

The County Superintendent or designee shall establish a supervised classroom suspension program which meets the requirements of law for students suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, who pose no imminent danger or threat at school, and for whom an expulsion action has not been initiated.

The County Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Legal Reference:
EDUCATION CODE
212.5 Sexual harassment
1981 Enrollment of students in community school
17292.5 Program for expelled students
32261 Interagency School Safety Demonstration Act of 1985
35146 Closed sessions (re suspensions)
35291 Rules (for government and discipline of schools)
35291.5 Rules and procedures on school discipline
48660-48667 Community day schools
48900-48927 Suspension and expulsion
48950 Speech and other communication
49073-49079 Privacy of student records
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

ENTRY UPON CAMPUS AFTER WRITTEN NOTICE OF SUSPENSION OR DISMISSAL WITHOUT PERMISSION

WELFARE AND INSTITUTIONS CODE
729.6 Counseling

UNITED STATES CODE, TITLE 18
921 Definitions, firearm

UNITED STATES CODE, TITLE 20
7151 Gun free schools

COURT DECISIONS


ATTORNEY GENERAL OPINIONS

Management Resources:
WEB SITES
CSBA: http://www.csba.org
California Attorney General's Office: http://www.caag.state.ca.us
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office of Safe and Drug-Free Schools:
http://www.ed.gov/about/offices/list/osdfs/index.html

Policy SANTA CLARA COUNTY OFFICE OF EDUCATION
adopted: October 20, 2010 San Jose, California